

(1) by striking "February 18, 2009;" in paragraph (1) and inserting "June 13, 2009;"; and

(2) by striking "February 18, 2009," in paragraph (2) and inserting "that date".

(b) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of that Act (47 U.S.C. 309 note) is amended by striking "March 31, 2009," and inserting "July 31, 2009,".

(c) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking "February 17, 2009," and inserting "June 12, 2009,".

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking "February 17, 2009," and inserting "June 12, 2009,".

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking "February 17, 2009," and inserting "June 12, 2009,".

(d) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term "recovered spectrum" means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

### SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

"(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed."

(b) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking "receives, via the United States Postal Service," and inserting "redeems".

### SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07-228, MB Docket No. 07-91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—

(1) USE ON CLEARED SPECTRUM.—Notwithstanding the amendments made by section 2, if—

(A) a television broadcast station ceases the broadcasting of such station's analog television service under subsection (a) of this section prior to June 12, 2009, and

(B) as a consequence of such cessation, spectrum between frequencies 768 and 776

megahertz, inclusive, and 798 and 806 megahertz, inclusive, becomes available for non-television broadcast use prior to June 12, 2009,

the Federal Communications Commission shall permit the use of such spectrum for authorized public safety radio services if the Commission determines that such use is in the public interest and does not cause harmful interference to full-power television stations in the analog or digital television service.

(2) EXPEDITED PROCEDURES.—The Federal Communications Commission may use expedited procedures, and may waive such rules as may be necessary, to make a determination on an application made under paragraph (1) to begin such use of such spectrum by a public safety agency (as such term is defined in section 3006(d)(1) of the Digital Television Transition and Public Safety Act of 2005) in not less than 2 weeks after the date of submission of such application.

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

### SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking "2011." and inserting "2012.".

### SEC. 6. EMERGENCY DESIGNATION.

Each amount made available under section 3005 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) as a result of the amendments made by this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

### PRIVILEGES OF THE FLOOR

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following Finance Committee detailees, fellows, and interns be allowed floor privileges during the consideration of H.R. 2: Mary Baker, Lauren Bishop, Pete Harvey, Laura Hoffmeister, Matt Kazan, Bridget Mallon, Toni Miles, Kelcy Poulson, Aris Prasetyo, Daniel Stein, and Kelley Whitener.

The PRESIDING OFFICER. Without objection, it is so ordered.

### DTV DELAY ACT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 328, introduced earlier today by Senator ROCKEFELLER.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 328) to postpone the DTV transition date.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, on February 17, 2009—less than 1 month from today—our Nation is scheduled to make the transition to digital television, or DTV. On this day, full-power television stations across the country will stop broadcasting in analog and switch to digital signals.

The way I see it, right now we have a choice. We can do the DTV transition right or we can do it wrong. Doing it right would mean that as many as 21 million households across this country do not lose access to news, information and emergency alerts. Doing it right would mean that every consumer who relies on over the-air television is aware of the steps they need to take to ensure continued reception and receive the assistance they need to prepare for the transition in their home. And doing it right means that no one across this land wakes up on February 18 to find that their television set has gone dark.

But the shameful truth is that we are not poised to do this transition right. We are only weeks away from doing it dreadfully wrong—and leaving consumers with the consequences. It is no secret that the outgoing administration grossly mismanaged the digital television transition. The coupon program that was designed to help consumers defray the cost of converter boxes to ensure the continued functioning of their analog television sets has a waiting list of over 2 million. This number will multiply to millions more in the weeks ahead. Making a difficult situation even worse, we also face the frightful specter of converter box shortages.

On top of this, consumers are aware of the transition, but confused about its consequences. One study suggests that while recognition of the transition is widespread, an alarming 63 percent have major misconceptions about just what steps they need to take to prepare. Calling centers at the Department of Commerce and Federal Communications Commission are ill-equipped to deal with the avalanche of calls that are expected on February 17 and in the days and weeks after. Consumers will be on their own, forced to navigate through the messy rubble of a botched transition.

I believe we can and should do better. Doing better means more than cobbling together the failed efforts of the last administration. Doing better requires more attention and more resources. But above all, it will require more time—to get the DTV transition right.

This is why last week I introduced the DTV Delay Act. I asked the Senate to delay the date of the transition from February 17 to June 12, 2009. This will give us the time we need to develop an approach that puts consumers first and provides them with the assistance they need.

In the interim, I have been working with the distinguished ranking member of the Senate Commerce, Science and Transportation Committee, Senator HUTCHISON, to modify and improve

the language of my earlier bill in an effort to broaden support and speed its passage.

I rise again today to introduce, now with my good friend Senator HUTCHISON, an amended version of the DTV Delay Act. This version incorporates adjustments to help manage the transition in affected communities, including a provision that makes clear that despite this date change the transition needs of broadcasters and public safety officials will be respected.

Let me be clear. This legislation is not perfect. But it represents a turning point—a start. The record will reflect that I have spent years advocating a different course. I voted against the Deficit Reduction Act of 2005, which set this hard date for the transition deep in the winter. I voted against this bill in both the Commerce Committee and during its consideration by the full Senate because it fell short of a real plan for minimizing consumer disruption. I voted against this bill because it failed to spend any resources building a national interoperable public safety communications network in the spectrum vacated by analog broadcasting. Voting no was by no means a popular thing to do. In fact, I was one of only three “no” votes in the Commerce Committee.

Last year, I introduced and the Congress passed the SAFER Act. This legislation provided the Federal Communications Commission with authority to extend analog television broadcasting so that essential public safety announcements and DTV transition could be viewed in the days following the February 17 transition. I now believe that this is not enough. It is a meaningful bandage, but the situation we face requires more intensive care.

The DTV Delay Act will not fix all of the problems associated with the transition. More work needs to be done to ensure that consumers are aware of the transition and get the help they need. But it gives us all the time to do the transition right. Time to develop a new plan, time to implement a new set of ideas to manage the transition, and time to make sure that in the switch to digital signals no American is left behind. Senator HUTCHISON and I are committed to making sure every American is able to manage the DTV transition without undue hardship. We are working on initiatives to be included in the economic recovery package. If we are able to make substantial progress on the administration of the transition this should be the last delay we have to seek. Barring unforeseen emergencies, we should not have another delay. I know the Obama administration shares our commitment to getting this right so that we can avoid any further delays.

So we have a choice, we can proceed with the DTV Delay Act or weeks from today we can survey the wreckage of a failed effort to transition to digital broadcasting, complete with angry consumers, converter box troubles, and

calling centers overwhelmed with consumer complaints. Worse, should a tragedy strike, we face the prospect of millions of consumers without access to television, without a lifeline for news and information that may be necessary to protect them from harm.

Again, we have a choice. And I know what I choose. I choose that we delay this transition because I believe we owe the American people a successful migration to digital television. Today will be the second time that the majority leader has sought consent on the DTV Delay Act. We simply can't keep coming back again and again to delay as time is running out. We must act now because we will not have the ability to address consumer needs if we wait much longer.

I ask my colleagues to do the same. I warn those who would stand in the way, who dismiss my sense of urgency, that should they force us to keep to our current course, it is the American public who will bear the brunt of their opposition. We owe our citizens so much more than this. So I ask my colleagues to join me and support the DTV Delay Act.

Mr. KERRY. Mr. President, I support the incoming chairman of the Commerce Committee as well as the President in the effort to delay the digital television transition date because I believe that the Federal Government's first responsibility in administering this transition is to the consumers who stand to lose television reception in just 22 days. On January 4, the National Telecommunications and Information Administration, NTIA, announced that the program designated to distribute coupons to consumers in need of digital converter boxes did not have sufficient resources to meet program demand. Just over 2 weeks later, more than 2.6 million requests for coupons, representing nearly 1.5 million American households, have been placed on a waiting list. Without an infusion of additional funds for this program, these coupons will not be delivered.

Senator ROCKEFELLER is advocating legislation to postpone the upcoming DTV transition date from February 17, 2009, until June 12, 2009. I am a cosponsor of the Rockefeller bill. The legislation is a response to a January 8 letter sent by President Obama's transition team co-chairman, John Podesta, which clearly stated the President's belief that the DTV transition should be delayed.

A high percentage of Americans who rely on over the air broadcast television are low-income or elderly and do not have the financial means to purchase a converter box without a coupon. If these households do not have a converter box when the statutorily mandated switch to digital television takes place, they will be left without access to critical news, information and emergency broadcasts.

To ensure that every request for a coupon is met, Congress will need to appropriate additional funds for the

coupon program. I support efforts to provide additional funding necessary to cover each and every coupon request. I also support making additional funds available for the outreach and education efforts that will be necessary to ensure as smooth a transition as possible. In the coming weeks, the Senate will consider economic stimulus legislation, and I hope this additional funding will be included in this bill. Before we reach that point however, it is imperative that Congress delays the transition date so consumers currently on the waiting list have sufficient time to receive and redeem their coupons.

There is no question that delaying the date will come with considerable cost to some parties. The Nation's broadcasters and cable operators have made considerable efforts to educate the public as to the current date, and these efforts should be commended. A delayed transition date will undoubtedly result in some increased cost to those responsible for facilitating the transition. I am also aware that licenses have been granted to operate in this spectrum after the transition date. These licenses were issued to the winning bidders in last year's 700 MHz spectrum auction, which resulted in nearly \$20 billion in Federal revenues. Additionally, public safety organizations across the country have been issued licenses to operate in portions of the spectrum following the February 17 statutory transition date. Congress, NTIA, and the Federal Communications Commission, FCC, should work to mitigate economic injury wherever possible for all parties involved in the ongoing effort to execute a smooth transition.

I also agree with Ranking Member HUTCHISON's proposed changes to the chairman's legislation, which would permit the NTIA to reissue expired coupons that go unused, extend the term of auctioned licenses by 116 days, and clarify broadcasters' ability to transition to digital-only transmission early, as well as the ability for public safety entities to have access to narrowband channels prior to the new deadline. These are important changes that will help to make the transition go smoothly.

I urge all of my colleagues to support the DTV Delay Act.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that a Rockefeller-Hutchison substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 38) was agreed to, as follows:

(Purpose: To postpone the DTV transition date)

Strike out all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “DTV Delay Act”.

**SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.**

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking “February 18, 2009;” in paragraph (1) and inserting “June 13, 2009;”; and

(2) by striking “February 18, 2009,” in paragraph (2) and inserting “that date”.

(b) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of that Act (47 U.S.C. 309 note) is amended by striking “March 31, 2009,” and inserting “July 31, 2009.”

(c) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking “February 17, 2009,” and inserting “June 12, 2009.”

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking “February 17, 2009,” and inserting “June 12, 2009.”

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking “February 17, 2009,” and inserting “June 12, 2009.”

(d) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term “recovered spectrum” means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

**SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.**

(a) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

“(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.”

(b) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking “receives, via the United States Postal Service,” and inserting “redeems”.

**SEC. 4. IMPLEMENTATION.**

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station’s analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission’s requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—

(1) USE ON CLEARED SPECTRUM.—Notwithstanding the amendments made by section 2, if—

(A) a television broadcast station ceases the broadcasting of such station’s analog television service under subsection (a) of this section prior to June 12, 2009, and

(B) as a consequence of such cessation, spectrum between frequencies 768 and 776 megahertz, inclusive, and 798 and 806 megahertz, inclusive, becomes available for non-television broadcast use prior to June 12, 2009, the Federal Communications Commission shall permit the use of such spectrum for authorized public safety radio services if the Commission determines that such use is in the public interest and does not cause harmful interference to full-power television stations in the analog or digital television service.

(2) EXPEDITED PROCEDURES.—The Federal Communications Commission may use expedited procedures, and may waive such rules as may be necessary, to make a determination on an application made under paragraph (1) to begin such use of such spectrum by a public safety agency (as such term is defined in section 3006(d)(1) of the Digital Television Transition and Public Safety Act of 2005) in not less than 2 weeks after the date of submission of such application.

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

**SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.**

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking “2011.” and inserting “2012.”

**SEC. 6. EMERGENCY DESIGNATION.**

Each amount made available under section 3005 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) as a result of the amendments made by this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

The bill (S. 328), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

**EXECUTIVE SESSION****NOMINATION OF MARY L. SCHAPIRO**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Sen-

ate proceed to executive session to consider the nomination of Mary L. Schapiro to fill an unexpired term, received today; that the Senate then proceed to the consideration of the nomination; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD; that no further motions be in order; that the President be immediately notified of the Senate’s action; and the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

**SECURITIES AND EXCHANGE COMMISSION**

Mary L. Schapiro, of the District of Columbia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2009.

**LEGISLATIVE SESSION**

The PRESIDING OFFICER. The Senate will now return to legislative session.

**AUTHORIZATION OF TESTIMONY**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 21 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 21) to authorize testimony in the United States of America v. Vincent J. Fumo, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a subpoena for testimony in a criminal case against former Pennsylvania State Senator Vincent J. Fumo in the United States District Court for the Eastern District of Pennsylvania. In this case, Mr. Fumo and two others are charged with multiple counts of conspiracy, fraud, obstruction of justice, and filing false tax returns. Among the charges is that Mr. Fumo, as chairman of the Senate Democratic Appropriations Committee, arranged for a friend, referred to as “Senate Contractor No. 5” in the indictment, to obtain a contract under which he was paid \$150,000 over 5 years, but performed little or no work. To rebut the allegation that no work was performed under the contract, the defense has subpoenaed Senator SPECTER’s former chief of staff, David Urban, to testify as a fact witness at trial as to contracts about and a meeting he had with Senate Contractor No. 5 during that 5-year contract. During that meeting, which was a typical meeting for a United States Senate office, Senate Contractor No. 5 explored possible federal funding for a low-income housing project in South Philadelphia. Neither the meeting nor the