

State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution.

S. 1219

At the request of Mr. FAIRCLOTH, the names of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1219, a bill to require the establishment of a research and grant program for the eradication or control of *Pfiesteria piscicida* and other aquatic toxins.

S. 1228

At the request of Mr. CHAFEE, the names of the Senator from Kansas [Mr. BROWNBACK], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Utah [Mr. BENNETT], the Senator from Hawaii [Mr. INOUE], the Senator from New York [Mr. MOYNIHAN], the Senator from Tennessee [Mr. FRIST], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. JOHN-SON], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Colorado [Mr. ALLARD], the Senator from Delaware [Mr. ROTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. KERREY], the Senator from Minnesota [Mr. GRAMS], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Maine [Ms. SNOWE], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1228, a bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes.

S. 1233

At the request of Mr. BROWNBACK, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1233, a bill to terminate the taxes imposed by the Internal Revenue Code of 1986 other than Social Security and railroad retirement related taxes.

S. 1252

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1256

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1256, a bill to simplify and ex-

pedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies or other government officials, or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions in which no State law claim is alleged; to permit certification of unsettled State law questions that are essential to Federal claims arising under the Constitution; to allow for efficient adjudication of constitutional claims brought by injured parties in the United States district courts and the Court of Federal Claims; to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution; and for other purposes.

S. 1308

At the request of Mr. BREAU, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1308, a bill to amend the Internal Revenue Code of 1986 to ensure taxpayer confidence in the fairness and independence of the taxpayer problem resolution process by providing a more independently operated Office of the Taxpayer Advocate, and for other purposes.

S. 1311

At the request of Mr. LIEBERMAN, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Louisiana [Mr. BREAU], the Senator from Florida [Mr. GRAHAM], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

At the request of Mr. LOTT, the names of the Senator from Oregon [Mr. SMITH], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Iowa [Mr. GRASSLEY], the Senator from Iowa [Mr. HARKIN], the Senator from Tennessee [Mr. FRIST], the Senator from Virginia [Mr. WARNER], the Senator from Virginia [Mr. ROBB], the Senator from Alabama [Mr. SESSIONS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1311, *supra*.

SENATE JOINT RESOLUTION 37

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 37, a joint resolution to provide for the extension of a temporary prohibition of strikes or lockout and to provide for binding arbitration with respect to the labor input between Amtrak and certain of its employees.

SENATE CONCURRENT RESOLUTION 54

At the request of Mr. DEWINE, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Kentucky [Mr. MCCONNELL] were added as

cosponsors of Senate Concurrent Resolution 54, a concurrent resolution expressing the sense of the Congress that the United States Postal Service should maintain the postal uniform allowance program.

AMENDMENT NO. 1424

At the request of Mr. CAMPBELL the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of amendment No. 1424 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

#### AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. GORTON. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet during the session of the Senate on Thursday, October 30, 1997, at 9:15 a.m. in SR-328A to mark up the nominations of Ms. Sally Thompson to be chief financial officer of the U.S. Department of Agriculture and Mr. Joe Dial to be Commissioner of the Commodity Futures Trading Commission.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 28, 1997, at 2:30 p.m. on aviation competition legislation.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GORTON. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, October 28, 9 a.m., Hearing Room (SD-406) on the President's nomination of Lt. Gen. Kenneth R. Wykle (Ret. Army) to be Administrator of the Federal Highway Administration.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, at 10 a.m. and 2 p.m. to hold hearings.

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

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, at 10:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: "Judicial Nominations."

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

#### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Protecting Our Medical Information Rights, Responsibilities, and Risks during the session of the Senate on Tuesday, October 28, 1997, at 10 a.m.

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

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 28, 1997 at 2:30 p.m. to hold a closed hearing.

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

#### SUBCOMMITTEE ON FINANCIAL SERVICES AND TECHNOLOGY

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Financial Services and Technology of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, October 28, 1997, to conduct a hearing on Electronic Authentication and Digital Signature 10:30 a.m.

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

#### SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, October 28, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to receive testimony on the potential impacts on, and additional responsibilities for, Federal land managers imposed by the Environmental protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing sections 169A and 169B of the Clean Air Act.

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

### ADDITIONAL STATEMENTS

#### PASSAGE OF H.R. 672

• Mr. HATCH. Mr. President, I rise today to laud the Senate passage of H.R. 672. This legislation, which was introduced by Congressman COBLE in the House of Representatives, is the counterpart to legislation I introduced in the Senate on March 20 of this year—the Copyright Clarification Act of 1997 (S. 506). The Copyright Clarification Act was reported unanimously by the Senate Judiciary Committee on April 17.

The purpose of these bills is to make technical but needed changes to our

Nation's copyright laws in order to ensure the effective administration of our copyright system and the U.S. Copyright Office. The need for these changes was first brought to my attention by the Register of Copyrights, Marybeth Peters, and I want to thank her for her outstanding work.

Among the most important amendments made by H.R. 672 is a clarification of the Copyright Office's authority to increase its fees for the first time since 1990 in order to help cover its costs and to reduce the impact of its services on the Federal budget and the American taxpayer. This clarification is needed because of ambiguities in the Copyright Fees and Technical Amendments Act of 1989, which authorized the Copyright Office to increase fees in 1995, and every fifth year thereafter. Because the Copyright Office did not raise its fees in 1995, as anticipated, there has been some uncertainty as to whether the Copyright Office may increase its fees again before 2000 and whether the baseline for calculating the increase in the consumer price index is the date of the last actual fee settlement, 1990, or the date of the last authorized fee settlement, 1995. H.R. 672 clarifies that the Copyright Office may increase its fees in any calendar year, provided it has not done so within the last 5 years, and that the fees may be increased up to the amount required to cover the reasonable costs incurred by the Copyright Office.

Although H.R. 672 does not require the Copyright Office to increase its fees to cover all its costs, I believe it is important in that it provides the Copyright Office the statutory tools to become self-sustaining—a concept that I promoted in the last Congress. Currently the Copyright Office does not recover the full cost of its services through fees, but instead receives some \$10 million in annual appropriations.

Several studies have supported full-cost recovery for the Copyright Office. For example, A 1996 Booz-Allen and Hamilton management review of the Library of Congress recommended that the Copyright Office pursue full-cost recovery, noting that the Copyright Office has been subject to full-cost recovery in the past and that the potential revenues to be derived from pursuing a fee-based service was significant. A 1996 internal Copyright Office management report prepared by the Library of Congress also recommended full-cost recovery for copyright services. The Congressional Budget Office has also suggested full-cost recovery for the Copyright Office as a means of achieving deficit reduction. These recommendations were endorsed by the General Accounting Office in its recent report, Intellectual Property, Fees Are Not Always Commensurate with the Costs of Service.

It is my understanding that the Copyright Office has embraced the goal of achieving full-cost recovery for its copyright services. H.R. 672 will provide the authority to achieve that goal,

and by passing this legislation this year, the Copyright Office will be able to move expeditiously to adjust their fees for the coming year.

I also want to note the importance of the amendment which the Senate has adopted to H.R. 672 to overturn the Ninth Circuit's decision in *La Cienega Music Co. v. ZZ Top*, 53 F.3d 950 (9th Cir. 1995), cert denied, 116 S. Ct. 331 (1995). My colleagues will recall that Senator LEAHY and I introduced this legislation in March of this year as a provision of S. 505, the Copyright Term Extension Act of 1997.

In general, *La Cienega* held that distributing a sound recording to the public—by sale, for example—is a publication of the music recorded on it under the 1909 Copyright Act. Under the 1909 act, publication without copyright notice caused loss of copyright protection. Almost all music that was first published on recordings did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of *La Cienega*, however, is that virtually all music before 1978 that was first distributed to the public on recordings has no copyright protection—at least in the Ninth Circuit.

By contrast, the Second Circuit in *Rosette v. Rainbo Record Manufacturing Corp.*, 546 F.2d 461 (2d Cir. 1975), aff'd per curiam, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that publish distribution of recordings was not a publication of the music contained on them. As I have noted, *Rosette* comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in *La Cienega*, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the Second or Ninth Circuits. This situation is intolerable. Overturning the *La Cienega* decision will restore national uniformity on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years.

In addition to these two important provisions, H.R. 672 will: First, correct drafting errors in the Satellite Home Viewer Act of 1994, which resulted from the failure to take into account the recent changes made by the Copyright Tribunal Reform Act of 1993, and which mistakenly reversed the rates set by a 1992 Copyright Arbitration Royalty Panel for satellite carriers; second, clarify ambiguities in the Copyright Restoration Act dealing with the restoration of copyright protection for certain works under the 1994 Uruguay Round Agreements Act; third, ensure that rates established in 1996 under the Digital Performance Rights in Sound Recordings Act will not lapse in the event that the Copyright Arbitration Royalty Panel does not conclude rate-setting proceedings prior to December