

SENATE RESOLUTION 641—MARKING 1 YEAR SINCE THE LANDFALL OF HURRICANE MARIA IN PUERTO RICO AND THE UNITED STATES VIRGIN ISLANDS

Mr. NELSON (for himself, Mr. RUBIO, Mr. MENENDEZ, Mr. CASEY, Ms. CORTEZ MASTO, Mrs. GILLIBRAND, Mr. WYDEN, Mr. DURBIN, Ms. WARREN, Ms. HARRIS, Mr. SANDERS, Mr. SCHUMER, Mr. PETERS, Mr. BOOKER, and Mr. BLUMENTHAL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 641

Whereas, on September 20, 2017, Hurricane Maria passed through the United States Virgin Islands as a category 5 hurricane and made landfall in Puerto Rico as a category 4 hurricane, causing significant devastation across those islands;

Whereas the people of Puerto Rico and the United States Virgin Islands have shown an incredible and resilient spirit in rebuilding after their record losses;

Whereas Hurricane Maria contributed to an estimated 2,975 deaths in Puerto Rico;

Whereas the National Oceanic and Atmospheric Administration estimates that Hurricane Maria caused an estimated \$90,000,000,000 in damage to Puerto Rico and the United States Virgin Islands, making Hurricane Maria the third-costliest hurricane in United States history;

Whereas, as a result of Hurricane Maria—

(1) 3,300,000 residents of Puerto Rico were left without electrical power;

(2) 95 percent of cellular sites were knocked out;

(3) 80 percent of water service was inoperable; and

(4) thousands of Puerto Ricans were displaced from their homes and relocated to the mainland United States;

Whereas significant challenges remain in recovery and rebuilding efforts in Puerto Rico 1 year after Hurricane Maria hit;

Whereas Congress appropriated billions of dollars with the specific purpose of directly helping the citizens of Puerto Rico to rebuild their lives in the aftermath of the hurricane;

Whereas the electrical grid on the island of Puerto Rico remains unreliable and susceptible to intermittent brownouts and blackouts; and

Whereas many Puerto Ricans continue to be displaced without access to permanent housing both on the island of Puerto Rico and on the mainland; Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that September 20, 2018, marks 1 year since the landfall of Hurricane Maria in Puerto Rico;

(2) honors the victims who lost their lives due to Hurricane Maria;

(3) commends the resiliency of those still rebuilding their lives after Hurricane Maria;

(4) recognizes the continued challenges facing Puerto Rico and the United States Virgin Islands in the wake of Hurricane Maria;

(5) commits to ensuring that survivors of Hurricane Maria have adequate resources to continue the recovery process;

(6) extols the work of first responders and citizens who contributed to saving countless lives in the aftermath of Hurricane Maria; and

(7) reaffirms the commitment of the Senate to support the people of Puerto Rico and the United States Virgin Islands as they continue to rebuild and recover from the devastation of Hurricane Maria.

SENATE RESOLUTION 642—DESIGNATING THE WEEK OF SEPTEMBER 15 THROUGH SEPTEMBER 22, 2018, AS “NATIONAL ESTUARIES WEEK”

Mr. WHITEHOUSE (for himself, Ms. COLLINS, Ms. CANTWELL, Mr. REED, Mrs. SHAHEEN, Mr. CARPER, Ms. HARRIS, Mr. MURPHY, Ms. HASSAN, Mrs. FEINSTEIN, Mr. PORTMAN, Mr. NELSON, Mr. WYDEN, Mr. MARKEY, Mr. BOOKER, Mr. BLUMENTHAL, Mr. WARNER, Mr. COONS, Mr. VAN HOLLEN, Mr. CASSIDY, Mr. MENENDEZ, Mr. MERKLEY, Mr. KING, Ms. HIRONO, Mr. CARDIN, Mr. PETERS, and Ms. BALDWIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 642

Whereas estuary regions cover only 13 percent of land area in the continental United States but contain nearly 43 percent of the population, 40 percent of jobs, and nearly 50 percent of the economic output of the United States;

Whereas the commercial and recreational fishing industries support over 1,600,000 jobs in the United States;

Whereas in 2016—

(1) commercial fish landings in the United States were valued at \$5,300,000,000;

(2) 9,600,000 recreational anglers took nearly 63,000,000 saltwater fishing trips; and

(3) consumers in the United States spent \$93,200,000 on fishery products;

Whereas estuaries provide vital habitats for—

(1) countless species of fish and wildlife, including more than 68 percent of the commercial fish catch in the United States by value and 80 percent of the recreational fish catch in the United States by weight; and

(2) many species that are listed as threatened or endangered species;

Whereas estuaries provide critical ecosystem services that protect human health and public safety, including through water filtration, flood control, shoreline stabilization, erosion prevention, and the protection of coastal communities during hurricanes, storms, and other extreme weather events;

Whereas by the 1980s the United States had already lost more than 50 percent of the wetlands that existed in the original 13 colonies;

Whereas some bays in the United States that were once filled with fish and oysters have become dead zones filled with excess nutrients, chemical waste, and marine debris;

Whereas harmful algal blooms are hurting fish, wildlife, and human health, and are causing serious ecological and economic harm to estuaries along every coast and the Great Lakes;

Whereas changes in sea level can affect estuarine water quality and estuarine habitats;

Whereas the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the “Clean Water Act”) authorizes the development of comprehensive conservation and management plans to ensure that the designated uses of estuaries are protected and to restore and maintain—

(1) the chemical, physical, and biological integrity of estuaries;

(2) water quality;

(3) a balanced indigenous population of shellfish, fish, and wildlife; and

(4) recreational activities in estuaries;

Whereas the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) provides that the policy of the United States is to preserve, protect, develop, and, if possible, restore or enhance the resources of the

coastal zone of the United States, including estuaries, for current and future generations;

Whereas 27 coastal and Great Lakes States and territories of the United States operate or contain a National Estuary Program or a National Estuarine Research Reserve;

Whereas scientific study leads to a better understanding of the benefits of estuaries to human and ecological communities;

Whereas the Federal Government, State, local, and Tribal governments, national and community organizations, and individuals work together to effectively manage the estuaries of the United States;

Whereas estuary restoration efforts restore natural infrastructure in local communities in a cost-effective manner, helping to create jobs and reestablish the natural functions of estuaries that yield countless benefits; and

Whereas the week of September 15 through September 22, 2018, is recognized as “National Estuaries Week” to increase awareness among all people of the United States, including Federal Government and State, local, and Tribal government officials, about the importance of healthy estuaries and the need to protect and restore estuaries: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of September 15 through September 22, 2018, as “National Estuaries Week”;

(2) supports the goals and ideals of National Estuaries Week;

(3) acknowledges the importance of estuaries to sustaining employment in the United States and the economic well-being and prosperity of the United States;

(4) recognizes that persistent threats undermine the health of estuaries;

(5) applauds the work of national and community organizations and public partners that promote public awareness, understanding, protection, and restoration of estuaries;

(6) supports the scientific study, preservation, protection, and restoration of estuaries; and

(7) expresses the intent of the Senate to continue working to understand, protect, and restore the estuaries of the United States.

SENATE CONCURRENT RESOLUTION 47—DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE A CORRECTION IN THE ENROLLMENT OF H.R. 6157

Mr. SHELBY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 47

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill H.R. 6157, the Clerk of the House of Representatives shall make the following corrections:

(1) Amend the long title so as to read: “Making consolidated appropriations for the Departments of Defense, Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2019, and for other purposes.”.

(2) In section 101(4) of division C, strike “31” and insert “141”.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4021. Mr. HATCH (for Mr. ALEXANDER) proposed an amendment to amendment SA 4022 proposed by Mr. HATCH (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. ALEXANDER,

Mr. WHITEHOUSE, Mr. COONS, and Mr. WYDEN) to the bill H.R. 1551, to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities.

SA 4022. Mr. HATCH (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. ALEXANDER, Mr. WHITEHOUSE, Mr. COONS, and Mr. WYDEN) proposed an amendment to the bill H.R. 1551, *supra*.

TEXT OF AMENDMENTS

SA 4021. Mr. HATCH (for Mr. ALEXANDER) proposed an amendment to amendment SA 4022 proposed by Mr. HATCH (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. ALEXANDER, Mr. WHITEHOUSE, Mr. COONS, and Mr. WYDEN) to the bill H.R. 1551, to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities; as follows:

On page 1, line 5, strike “Music Modernization Act” and insert “Orrin G. Hatch Music Modernization Act”.

SA 4022. Mr. HATCH (for himself, Mr. GRASSLEY, Mrs. FEINSTEIN, Mr. ALEXANDER, Mr. WHITEHOUSE, Mr. COONS, and Mr. WYDEN) proposed an amendment to the bill H.R. 1551, to amend the Internal Revenue Code of 1986 to modify the credit for production from advanced nuclear power facilities; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Music Modernization Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Customs user fees.

TITLE I—MUSIC LICENSING MODERNIZATION

Sec. 101. Short title.

Sec. 102. Blanket license for digital uses and mechanical licensing collective.

Sec. 103. Amendments to section 114.

Sec. 104. Random assignment of rate court proceedings.

Sec. 105. Performing rights society consent decrees.

Sec. 106. Effective date.

TITLE II—CLASSICS PROTECTION AND ACCESS

Sec. 201. Short title.

Sec. 202. Unauthorized use of pre-1972 sound recordings.

TITLE III—ALLOCATION FOR MUSIC PRODUCERS

Sec. 301. Short title.

Sec. 302. Payment of statutory performance royalties.

Sec. 303. Effective date.

TITLE IV—SEVERABILITY

Sec. 401. Severability.

SEC. 2. CUSTOMS USER FEES.

Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 38c(j)(3)(A)) is amended by striking “October 13, 2027” and inserting “October 20, 2027”.

TITLE I—MUSIC LICENSING MODERNIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the “Musical Works Modernization Act”.

SEC. 102. BLANKET LICENSE FOR DIGITAL USES AND MECHANICAL LICENSING COLLECTIVE.

(a) **AMENDMENT.**—Section 115 of title 17, United States Code, is amended—

(1) in subsection (a)—

(A) in the subsection heading, by inserting “IN GENERAL” after “AVAILABILITY AND SCOPE OF COMPULSORY LICENSE”;

(B) by striking paragraph (1) and inserting the following:

“(1) ELIGIBILITY FOR COMPULSORY LICENSE.—

“(A) CONDITIONS FOR COMPULSORY LICENSE.—A person may by complying with the provisions of this section obtain a compulsory license to make and distribute phonorecords of a nondramatic musical work, including by means of digital phonorecord delivery. A person may obtain a compulsory license only if the primary purpose in making phonorecords of the musical work is to distribute them to the public for private use, including by means of digital phonorecord delivery, and—

“(i) phonorecords of such musical work have previously been distributed to the public in the United States under the authority of the copyright owner of the work, including by means of digital phonorecord delivery; or

“(ii) in the case of a digital music provider seeking to make and distribute digital phonorecord deliveries of a sound recording embodying a musical work under a compulsory license for which clause (i) does not apply—

“(I) the first fixation of such sound recording was made under the authority of the musical work copyright owner, and the sound recording copyright owner has the authority of the musical work copyright owner to make and distribute digital phonorecord deliveries embodying such work to the public in the United States; and

“(II) the sound recording copyright owner, or the authorized distributor of the sound recording copyright owner, has authorized the digital music provider to make and distribute digital phonorecord deliveries of the sound recording to the public in the United States.

“(B) DUPLICATION OF SOUND RECORDING.—A person may not obtain a compulsory license for the use of the work in the making of phonorecords duplicating a sound recording fixed by another, including by means of digital phonorecord delivery, unless—

“(i) such sound recording was fixed lawfully; and

“(ii) the making of the phonorecords was authorized by the owner of the copyright in the sound recording or, if the sound recording was fixed before February 15, 1972, by any person who fixed the sound recording pursuant to an express license from the owner of the copyright in the musical work or pursuant to a valid compulsory license for use of such work in a sound recording.”; and

(C) in paragraph (2), by striking “A compulsory license” and inserting “MUSICAL ARRANGEMENT.—A compulsory license”;

(2) by striking subsection (b) and inserting the following:

“(b) PROCEDURES TO OBTAIN A COMPULSORY LICENSE.—

“(1) PHONORECORDS OTHER THAN DIGITAL PHONORECORD DELIVERIES.—A person who seeks to obtain a compulsory license under subsection (a) to make and distribute phonorecords of a musical work other than by means of digital phonorecord delivery shall, before, or not later than 30 calendar days after, making, and before distributing, any phonorecord of the work, serve notice of intention to do so on the copyright owner. If the registration or other public records of the Copyright Office do not identify the copyright owner and include an address at which notice can be served, it shall be sufficient to file the notice of intention with the Copyright Office. The notice shall comply, in form, content, and manner of service, with

requirements that the Register of Copyrights shall prescribe by regulation.

“(2) DIGITAL PHONORECORD DELIVERIES.—A person who seeks to obtain a compulsory license under subsection (a) to make and distribute phonorecords of a musical work by means of digital phonorecord delivery—

“(A) prior to the license availability date, shall, before, or not later than 30 calendar days after, first making any such digital phonorecord delivery, serve a notice of intention to do so on the copyright owner (but may not file the notice with the Copyright Office, even if the public records of the Office do not identify the owner or the owner’s address), and such notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation; or

“(B) on or after the license availability date, shall, before making any such digital phonorecord delivery, follow the procedure described in subsection (d)(2), except as provided in paragraph (3).

“(3) RECORD COMPANY INDIVIDUAL DOWNLOAD LICENSES.—Notwithstanding paragraph (2)(B), a record company may, on or after the license availability date, obtain an individual download license in accordance with the notice requirements described in paragraph (2)(A) (except for the requirement that notice occur prior to the license availability date). A record company that obtains an individual download license as permitted under this paragraph shall provide statements of account and pay royalties as provided in subsection (c)(2)(I).

“(4) FAILURE TO OBTAIN LICENSE.—

“(A) PHONORECORDS OTHER THAN DIGITAL PHONORECORD DELIVERIES.—In the case of phonorecords made and distributed other than by means of digital phonorecord delivery, the failure to serve or file the notice of intention required by paragraph (1) forecloses the possibility of a compulsory license under paragraph (1). In the absence of a voluntary license, the failure to obtain a compulsory license renders the making and distribution of phonorecords actionable as acts of infringement under section 501 and subject to the remedies provided by sections 502 through 506.

“(B) DIGITAL PHONORECORD DELIVERIES.—

“(i) IN GENERAL.—In the case of phonorecords made and distributed by means of digital phonorecord delivery:

“(I) The failure to serve the notice of intention required by paragraph (2)(A) or paragraph (3), as applicable, forecloses the possibility of a compulsory license under such paragraph.

“(II) The failure to comply with paragraph (2)(B) forecloses the possibility of a blanket license for a period of 3 years after the last calendar day on which the notice of license was required to be submitted to the mechanical licensing collective under such paragraph.

“(ii) EFFECT OF FAILURE.—In either case described in subclause (I) or (II) of clause (i), in the absence of a voluntary license, the failure to obtain a compulsory license renders the making and distribution of phonorecords by means of digital phonorecord delivery actionable as acts of infringement under section 501 and subject to the remedies provided by sections 502 through 506.”;

(3) by amending subsection (c) to read as follows:

“(C) GENERAL CONDITIONS APPLICABLE TO COMPULSORY LICENSE.—

“(1) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

“(A) IDENTIFICATION REQUIREMENT.—To be entitled to receive royalties under a compulsory license obtained under subsection (b)(1) the copyright owner must be identified in