## MUSIC MODERNIZATION ACT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5447) to modernize copyright law, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5447

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**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. 2. RESCISSION OF UNOBLIGATED BALANCES IN THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.**

Of the unobligated balances available under the Department of Justice Assets Forfeiture Fund, $47,000,000 is hereby permanently rescinded.

## 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) by inserting ''IN GENERAL'' after ''AVAILABILITY AND SCOPE OF COMPULSORY LICENSE'';

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

''(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 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 its authorized distributor 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 within 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 within 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 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) In either case described in 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 the registration or other public records of the Copyright Office. The owner is entitled to royalties for phonorecords made and distributed after being so identified, but is not entitled to recover for any phonorecords previously made and distributed.

''(B) ROYALTY FOR PHONORECORDS OTHER THAN DIGITAL PHONORECORD DELIVERIES.—Except as provided by subparagraph (A), for every phonorecord made and distributed under a compulsory license under subsection (a) other than by means of digital phonorecord delivery, with respect to each work embodied in the phonorecord, the royalty shall be the royalty prescribed under subparagraphs (D) through (F) and paragraph (2)(A) and chapter 8 of this title. For purposes of this subparagraph, a phonorecord is considered 'distributed' if the person exercising the compulsory license has voluntarily and permanently parted with its possession.

''(C) ROYALTY FOR DIGITAL PHONORECORD DELIVERIES.—For every digital phonorecord delivery of a musical work made under a

compulsory license under this section, the royalty payable shall be the royalty prescribed under subparagraphs (D) through (F) and paragraph (2)(A) and chapter 8 of this title.

''(D) AUTHORITY TO NEGOTIATE.—Notwithstanding any provision of the antitrust laws, any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a) may negotiate and agree upon the terms and rates of royalty payments under this section and the proportionate division of fees paid among copyright owners, and may designate common agents on a nonexclusive basis to negotiate, agree to, pay or receive such royalty payments. Such authority to negotiate the terms and rates of royalty payments includes, but is not limited to, the authority to negotiate the year during which the royalty rates prescribed under this subparagraph and subparagraphs (E) and (F) and paragraph (2)(A) and chapter 8 of this title shall next be determined.

''(E) DETERMINATION OF REASONABLE RATES AND TERMS.—Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by this section during the period beginning with the effective date of such rates and terms, but not earlier than January 1 of the second year following the year in which the petition requesting the proceeding is filed, and ending on the effective date of successor rates and terms, or such other period as the parties may agree. Any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a) may submit to the Copyright Royalty Judges licenses covering such activities. The parties to each proceeding shall bear their own costs.

''(F) SCHEDULE OF REASONABLE RATES.—The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (2)(A), be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a) during the period specified in subparagraph (E), such other period as may be determined pursuant to subparagraphs (D) and (E), or such other period as the parties may agree. The Copyright Royalty Judges shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms for digital phonorecord deliveries, the Copyright Royalty Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—

''(i) whether use of the compulsory licensee's service may substitute for or may promote the sales of phonorecords or otherwise may interfere with or may enhance the musical work copyright owner's other streams of revenue from its musical works; and

''(ii) the relative roles of the copyright owner and the compulsory licensee in the copyrighted work and the service made available to the public with respect to the relative creative contribution, technological contribution, capital investment, cost, and risk.

''(2) ADDITIONAL TERMS AND CONDITIONS.—

''(A) VOLUNTARY LICENSES AND CONTRACTUAL ROYALTY RATES.—

''(i) License agreements voluntarily negotiated at any time between one or more copyright owners of nondramatic musical works and one or more persons entitled to obtain a compulsory license under subsection (a) shall be given effect in lieu of any determination by the Copyright Royalty Judges. Subject to clause (ii), the royalty rates determined pursuant to subparagraphs (E) and (F) of paragraph (1) shall be given effect as to digital phonorecord deliveries in lieu of any contrary royalty rates specified in a contract pursuant to which a recording artist who is the author of a nondramatic musical work grants a license under that person's exclusive rights in the musical work under paragraphs (1) and (3) of section 106 or commits another person to grant a license in that musical work under paragraphs (1) and (3) of section 106, to a person desiring to fix in a tangible medium of expression a sound recording embodying the musical work.

''(ii) The second sentence of clause (i) shall not apply to—

''(I) a contract entered into on or before June 22, 1995, and not modified thereafter for the purpose of reducing the royalty rates determined pursuant to subparagraphs (E) and (F) of paragraph (1) or of increasing the number of musical works within the scope of the contract covered by the reduced rates, except if a contract entered into on or before June 22, 1995, is modified thereafter for the purpose of increasing the number of musical works within the scope of the contract, any contrary royalty rates specified in the contract shall be given effect in lieu of royalty rates determined pursuant to subparagraphs (E) and (F) of paragraph (1) for the number of musical works within the scope of the contract as of June 22, 1995; and

''(II) a contract entered into after the date that the sound recording is fixed in a tangible medium of expression substantially in a form intended for commercial release, if at the time the contract is entered into, the recording artist retains the right to grant licenses as to the musical work under paragraphs (1) and (3) of section 106.

''(B) SOUND RECORDING INFORMATION.—Except as provided in section 1002(e) of this title, a digital phonorecord delivery licensed under this paragraph shall be accompanied by the information encoded in the sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer.

''(C) INFRINGEMENT REMEDIES.—

''(i) A digital phonorecord delivery of a sound recording is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506, unless—

''(I) the digital phonorecord delivery has been authorized by the sound recording copyright owner; and

''(II) the entity making the digital phonorecord delivery has obtained a compulsory license under subsection (a) or has otherwise been authorized by the musical work copyright owner, or by a record company pursuant to an individual download license, to make and distribute phonorecords of each musical work embodied in the sound recording by means of digital phonorecord delivery.

''(ii) Any cause of action under this subparagraph shall be in addition to those available to the owner of the copyright in the nondramatic musical work under subparagraph (J) and section 106(4) and the owner of the copyright in the sound recording under section 106(6).

''(D) LIABILITY OF SOUND RECORDING OWNERS.—The liability of the copyright owner of a sound recording for infringement of the copyright in a nondramatic musical work embodied in the sound recording shall be determined in accordance with applicable law, except that the owner of a copyright in a sound recording shall not be liable for a digital phonorecord delivery by a third party if the owner of the copyright in the sound recording does not license the distribution of a phonorecord of the nondramatic musical work.

''(E) RECORDING DEVICES AND MEDIA.—Nothing in section 1008 shall be construed to prevent the exercise of the rights and remedies allowed by this paragraph, subparagraph (J), and chapter 5 in the event of a digital phonorecord delivery, except that no action alleging infringement of copyright may be brought under this title against a manufacturer, importer or distributor of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or against a consumer, based on the actions described in such section.

''(F) PRESERVATION OF RIGHTS.—Nothing in this section annuls or limits (i) the exclusive right to publicly perform a sound recording or the musical work embodied therein, including by means of a digital transmission, under sections 106(4) and 106(6), (ii) except for compulsory licensing under the conditions specified by this section, the exclusive rights to reproduce and distribute the sound recording and the musical work embodied therein under sections 106(1) and 106(3), including by means of a digital phonorecord delivery, or (iii) any other rights under any other provision of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

''(G) EXEMPT TRANSMISSIONS AND RETRANSMISSIONS.—The provisions of this section concerning digital phonorecord deliveries shall not apply to any exempt transmissions or retransmissions under section 114(d)(1). The exemptions created in section 114(d)(1) do not expand or reduce the rights of copyright owners under section 106(1) through (5) with respect to such transmissions and retransmissions.

''(H) DISTRIBUTION BY RENTAL, LEASE, OR LENDING.—A compulsory license obtained under subsection (b)(1) to make and distribute phonorecords includes the right of the maker of such a phonorecord to distribute or authorize distribution of such phonorecord, other than by means of a digital phonorecord delivery, by rental, lease, or lending (or by acts or practices in the nature of rental, lease, or lending). With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under subsection (a)(1)(A)(ii)(II) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause.

''(I) PAYMENT OF ROYALTIES AND STATEMENTS OF ACCOUNT.—Except as provided in paragraphs (4)(A)(i) and (10)(B) of subsection (d), royalty payments shall be made on or before the twentieth day of each month and shall include all royalties for the month next preceding. Each monthly payment shall be made under oath and shall comply with requirements that the Register of Copyrights shall prescribe by regulation. The Register shall also prescribe regulations under which detailed cumulative annual statements of account, certified by a certified public accountant, shall be filed for every compulsory license under subsection (a). The regulations covering both the monthly and the annual statements of account shall prescribe the form, content, and manner of certification with respect to the number of records made and the number of records distributed.

''(J) NOTICE OF DEFAULT AND TERMINATION OF COMPULSORY LICENSE.—In the case of a license obtained under subsection (b)(1), (b)(2)(A), or (b)(3), if the copyright owner does not receive the monthly payment and the monthly and annual statements of account when due, the owner may give written notice to the licensee that, unless the default is remedied within thirty days from the date of the notice, the compulsory license will be automatically terminated. Such termination renders either the making or the distribution, or both, of all phonorecords for which the royalty has not been paid, actionable as acts of infringement under section 501 and fully subject to the remedies provided by sections 502 through 506. In the case of a license obtained under subsection (b)(2)(B), license authority under the compulsory license may be terminated as provided in subsection (d)(4)(E).'';

(4) by amending subsection (d) to read as follows:

''(d) BLANKET LICENSE FOR DIGITAL USES, MECHANICAL LICENSING COLLECTIVE, AND DIGITAL LICENSEE COORDINATOR.—

''(1) BLANKET LICENSE FOR DIGITAL USES.—

''(A) IN GENERAL.—A digital music provider that qualifies for a compulsory license under subsection (a) may, by complying with the terms and conditions of this subsection, obtain a blanket license from copyright owners through the mechanical licensing collective to make and distribute digital phonorecord deliveries of musical works through one or more covered activities.

''(B) INCLUDED ACTIVITIES.—A blanket license—

''(i) covers all musical works (or shares of such works) available for compulsory licensing under this section for purposes of engaging in covered activities, except as provided in subparagraph (C);

''(ii) includes the making and distribution of server, intermediate, archival, and incidental reproductions of musical works that are reasonable and necessary for the digital music provider to engage in covered activities licensed under this subsection, solely for the purpose of engaging in such covered activities; and

''(iii) does not cover or include any rights or uses other than those described in clauses (i) and (ii).

''(C) OTHER LICENSES.—A voluntary license for covered activities entered into by or under the authority of one or more copyright owners and one or more digital music providers, or authority to make and distribute permanent downloads of a musical work obtained by a digital music provider from a sound recording copyright owner pursuant to an individual download license, shall be given effect in lieu of a blanket license under this subsection with respect to the musical works (or shares thereof) covered by such voluntary license or individual download authority and the following conditions apply:

''(i) Where a voluntary license or individual download license applies, the license authority provided under the blanket license shall exclude any musical works (or shares thereof) subject to the voluntary license or individual download license.

''(ii) An entity engaged in covered activities under a voluntary license or authority obtained pursuant to an individual download license that is a significant nonblanket licensee shall comply with paragraph (6)(A).

''(iii) The rates and terms of any voluntary license shall be subject to the second sentence of clause (i) and clause (ii) of subsection (c)(2)(A) and paragraph (9)(C), as applicable.

''(D) PROTECTION AGAINST INFRINGEMENT ACTIONS.—A digital music provider that obtains and complies with the terms of a valid blanket license under this subsection shall not be subject to an action for infringement of the exclusive rights provided by paragraphs (1) and (3) of section 106 under this title arising from use of a musical work (or share thereof) to engage in covered activities authorized by such license, subject to paragraph (4)(E).

''(E) OTHER REQUIREMENTS AND CONDITIONS APPLY.—Except as expressly provided in this subsection, each requirement, limitation, condition, privilege, right, and remedy otherwise applicable to compulsory licenses under this section shall apply to compulsory blanket licenses under this subsection.

''(2) AVAILABILITY OF BLANKET LICENSE.—

''(A) PROCEDURE FOR OBTAINING LICENSE.—A digital music provider may obtain a blanket license by submitting a notice of license to the mechanical licensing collective that specifies the particular covered activities in which the digital music provider seeks to engage, as follows:

''(i) The notice of license shall comply in form and substance with requirements that the Register of Copyrights shall establish by regulation.

''(ii) Unless rejected in writing by the mechanical licensing collective within 30 calendar days after receipt, the blanket license shall be effective as of the date the notice of license was sent by the digital music provider as shown by a physical or electronic record.

''(iii) A notice of license may only be rejected by the mechanical licensing collective if—

''(I) the digital music provider or notice of license does not meet the requirements of this section or applicable regulations, in which case the requirements at issue shall be specified with reasonable particularity in the notice of rejection; or

''(II) the digital music provider has had a blanket license terminated by the mechanical licensing collective within the past 3 years pursuant to paragraph (4)(E).

''(iv) If a notice of license is rejected under clause (iii)(I), the digital music provider shall have 30 calendar days after receipt of the notice of rejection to cure any deficiency and submit an amended notice of license to the mechanical licensing collective. If the deficiency has been cured, the mechanical licensing collective shall so confirm in writing, and the license shall be effective as of the date that the original notice of license was provided by the digital music provider.

''(v) A digital music provider that believes a notice of license was improperly rejected by the mechanical licensing collective may seek review of such rejection in Federal district court. The district court shall determine the matter de novo based on the record before the mechanical licensing collective and any additional evidence presented by the parties.

''(B) BLANKET LICENSE EFFECTIVE DATE.—Blanket licenses shall be made available by the mechanical licensing collective on and after the license availability date. No such license shall be effective prior to the license availability date.

''(3) MECHANICAL LICENSING COLLECTIVE.—

''(A) IN GENERAL.—The mechanical licensing collective shall be a single entity that—

''(i) is a nonprofit, not owned by any other entity, that is created by copyright owners to carry out responsibilities under this subsection;

''(ii) is endorsed by and enjoys substantial support from musical work copyright owners that together represent the greatest percentage of the licensor market for uses of such works in covered activities, as measured over the preceding 3 full calendar years;

''(iii) is able to demonstrate to the Register of Copyrights that it has, or will have prior to the license availability date, the administrative and technological capabilities to perform the required functions of the mechanical licensing collective under this subsection; and

''(iv) has been designated by the Register of Copyrights in accordance with subparagraph (B).

''(B) DESIGNATION OF MECHANICAL LICENSING COLLECTIVE.—

''(i) INITIAL DESIGNATION.—The Register of Copyrights shall initially designate the mechanical licensing collective within 9 months after the enactment date as follows:

''(I) Within 90 calendar days after the enactment date, the Register shall publish notice in the Federal Register soliciting information to assist in identifying the appropriate entity to serve as the mechanical licensing collective, including the name and affiliation of each member of the board of directors described under subparagraph (D)(i) and each committee established pursuant to clauses (iii), (iv), and (v) of subparagraph (D).

''(II) After reviewing the information requested under subclause (I) and making a designation, the Register shall publish notice in the Federal Register setting forth the identity of and contact information for the mechanical licensing collective.

''(ii) PERIODIC REVIEW OF DESIGNATION.—Following the initial designation of the mechanical licensing collective, the Register shall, every 5 years, beginning with the fifth full calendar year to commence after the initial designation, publish notice in the Federal Register in the month of January soliciting information concerning whether the existing designation should be continued, or a different entity meeting the criteria described in clauses (i) through (iii) of subparagraph (A) shall be designated. Following publication of such notice:

''(I) The Register shall, after reviewing the information submitted and conducting additional proceedings as appropriate, publish notice in the Federal Register of a continuing designation or new designation of the mechanical licensing collective, as the case may be, with any new designation to be effective as of the first day of a month that is no less than 6 months and no longer than 9 months after the date of publication of such notice, as specified by the Register.

''(II) If a new entity is designated as a mechanical licensing collective, the Register shall adopt regulations to govern the transfer of licenses, funds, records, data, and administrative responsibilities from the existing mechanical licensing collective to the new entity.

''(iii) CLOSEST ALTERNATIVE DESIGNATION.—If the Register is unable to identify an entity that fulfills each of the qualifications set forth in clauses (i) through (iii) of subparagraph (A), the Register shall designate the entity that most nearly fulfills such qualifications for purposes of carrying out the responsibilities of the mechanical licensing collective.

''(C) AUTHORITIES AND FUNCTIONS.—

''(i) IN GENERAL.—The mechanical licensing collective is authorized to perform the following functions, subject to more particular requirements as described in this subsection:

''(I) Offer and administer blanket licenses, including receipt of notices of license and reports of usage from digital music providers.

''(II) Collect and distribute royalties from digital music providers for covered activities.

''(III) Engage in efforts to identify musical works (and shares of such works) embodied in particular sound recordings, and to identify and locate the copyright owners of such musical works (and shares of such works).

''(IV) Maintain the musical works database and other information relevant to the administration of licensing activities under this section.

''(V) Administer a process by which copyright owners can claim ownership of musical works (and shares of such works), and a process by which royalties for works for which the owner is not identified or located are equitably distributed to known copyright owners.

''(VI) Administer collections of the administrative assessment from digital music providers and significant nonblanket licensees, including receipt of notices of nonblanket activity.

''(VII) Invest in relevant resources, and arrange for services of outside vendors and others, to support its activities.

''(VIII) Engage in legal and other efforts to enforce rights and obligations under this subsection, including by filing bankruptcy proofs of claims for amounts owed under licenses, and acting in coordination with the digital licensee coordinator..

''(IX) Initiate and participate in proceedings before the Copyright Royalty Judges to establish the administrative assessment under this subsection.

''(X) Initiate and participate in proceedings before the Copyright Office with respect to activities under this subsection.

''(XI) Gather and provide documentation for use in proceedings before the Copyright Royalty Judges to set rates and terms under this section.

''(XII) Maintain records of its activities and engage in and respond to audits described under this subsection.

''(XIII) Engage in such other activities as may be necessary or appropriate to fulfill its responsibilities under this subsection.

''(ii) ADDITIONAL ADMINISTRATIVE ACTIVITIES.—Subject to paragraph (11)(C) and clause (iii), the mechanical licensing collective may also administer, or assist in administering, voluntary licenses issued by or individual download licenses obtained from copyright owners for uses of musical works, for which the mechanical licensing collective shall charge reasonable fees for such services.

''(iii) RESTRICTION CONCERNING PUBLIC PERFORMANCE RIGHTS.—The mechanical licensing collective may, pursuant to clause (ii), provide administration services with respect to voluntary licenses that include the right of public performance in musical works, but may not itself negotiate or grant licenses for the right of public performance in musical works, and may not be the exclusive or nonexclusive assignee or grantee of the right of public performance in musical works.

''(iv) RESTRICTION ON LOBBYING.—The mechanical licensing collective may not engage in government lobbying activities, but may engage in the activities described in subclauses (IX), (X), and (XI) of clause (i).

''(D) GOVERNANCE.—

''(i) BOARD OF DIRECTORS.—The mechanical licensing collective shall have a board of directors consisting of 14 voting members and 3 nonvoting members, as follows:

''(I) Ten voting members shall be representatives of music publishers to which songwriters have assigned exclusive rights of reproduction and distribution of musical works with respect to covered activities and no such music publisher member may be owned by, or under common control with, any other board member.

''(II) Four voting members shall be professional songwriters who have retained and exercise exclusive rights of reproduction and distribution with respect to covered activities with respect to musical works they have authored.

''(III) One nonvoting member shall be a representative of the nonprofit trade association of music publishers that represents the greatest percentage of the licensor market for uses of musical works in covered activities, as measured over the preceding 3 full calendar years.

''(IV) One nonvoting member shall be a representative of the digital licensee coordinator, provided that a digital licensee coordinator has been designated pursuant to paragraph (5)(B). Otherwise, the nonvoting member shall be the nonprofit trade association of digital licensees that represents the greatest percentage of the licensee market for uses of musical works in covered activities, as measured over the preceding 3 full calendar years.

''(V) One nonvoting member shall be a representative of a nationally recognized nonprofit trade association whose primary mission is advocacy on behalf of songwriters in the United States.

''(ii) BOARD MEETINGS.—The board of directors shall meet no less than 2 times per year and discuss matters pertinent to the operations, including the mechanical licensing collective budget.

''(iii) OPERATIONS ADVISORY COMMITTEE.—The board of directors of the mechanical licensing collective shall establish an operations advisory committee consisting of no fewer than 6 members to make recommendations to the board of directors concerning the operations of the mechanical licensing collective, including the efficient investment in and deployment of information technology and data resources. Such committee shall have an equal number of members of the committee who are—

''(I) musical work copyright owners who are appointed by the board of directors of the mechanical licensing collective; and

''(II) representatives of digital music providers who are appointed by the digital licensee coordinator.

''(iv) UNCLAIMED ROYALTIES OVERSIGHT COMMITTEE.—The board of directors of the mechanical licensing collective shall establish and appoint an unclaimed royalties oversight committee consisting of 10 members, 5 of which shall be musical work copyright owners and 5 of which shall be professional songwriters whose works are used in covered activities.

''(v) DISPUTE RESOLUTION COMMITTEE.—The board of directors of the mechanical licensing collective shall establish and appoint a dispute resolution committee consisting of no fewer than 6 members, which committee shall include an equal number of representatives of musical work copyright owners and professional songwriters.

''(vi) MECHANICAL LICENSING COLLECTIVE ANNUAL REPORT.—Not later than June 30 of each year commencing after the license availability date, the mechanical licensing collective shall post, and make available online for a period of at least 3 years, an annual report that sets forth how the collective operates, how royalties are collected and distributed, and the collective total costs for the preceding calendar year. At the time of posting, a copy of the report shall be provided to the Register of Copyrights.

''(E) MUSICAL WORKS DATABASE.—

''(i) ESTABLISHMENT AND MAINTENANCE OF DATABASE.—The mechanical licensing collective shall establish and maintain a database containing information relating to musical works (and shares of such works) and, to the extent known, the identity and location of the copyright owners of such works (and shares thereof) and the sound recordings in which the musical works are embodied. In furtherance of maintaining such database, the mechanical licensing collective shall engage in efforts to identify the musical works embodied in particular sound recordings, as well as to identify and locate the copyright owners of such works (and shares thereof), and update such data as appropriate.

''(ii) MATCHED WORKS.—With respect to musical works (and shares thereof) that have been matched to copyright owners, the musical works database shall include—

''(I) the title of the musical work;

''(II) the copyright owner of the work (or share thereof), and such owner's ownership percentage;

''(III) contact information for such copyright owner;

''(IV) to the extent reasonably available to the mechanical licensing collective—

''(aa) the international standard musical work code for the work; and

''(bb) identifying information for sound recordings in which the musical work is embodied, including the name of the sound recording, featured artist, sound recording copyright owner, producer, international standard recording code, and other information commonly used to assist in associating sound recordings with musical works; and

''(V) such other information as the Register of Copyrights may prescribe by regulation.

''(iii) UNMATCHED WORKS.—With respect to unmatched musical works (and shares of works) in the database, the musical works database shall include—

''(I) to the extent reasonably available to the mechanical licensing collective—

''(aa) the title of the musical work;

''(bb) the ownership percentage for which an owner has not been identified;

''(cc) if a copyright owner has been identified but not located, the identity of such owner and such owner's ownership percentage;

''(dd) identifying information for sound recordings in which the work is embodied, including sound recording name, featured artist, sound recording copyright owner, producer, international standard recording code, and other information commonly used to assist in associating sound recordings with musical works; and

''(ee) any additional information reported to the mechanical licensing collective that may assist in identifying the work; and

''(II) such other information relating to the identity and ownership of musical works (and shares of such works) as the Register of Copyrights may prescribe by regulation.

''(iv) SOUND RECORDING INFORMATION.—Each musical work copyright owner with any musical work listed in the musical works database shall engage in commercially reasonable efforts to deliver to the mechanical licensing collective, including for use in the musical works database, to the extent such information is not then available in the database, information regarding the names of the sound recordings in which that copyright owner's musical works (or shares thereof) are embodied, to the extent practicable.

''(v) ACCESSIBILITY OF DATABASE.—The musical works database shall be made available to members of the public in a searchable, online format, free of charge. The mechanical licensing collective shall make such database available in a bulk, machine-readable format, through a widely available software application, to the following entities:

''(I) Digital music providers operating under the authority of valid notices of license, free of charge.

''(II) Significant nonblanket licensees in compliance with their obligations under paragraph (6), free of charge.

''(III) Authorized vendors of the entities described in subclauses (I) and (II), free of charge.

''(IV) The Register of Copyrights, free of charge (but the Register shall not treat such database or any information therein as a Government record).

''(V) Any member of the public, for a fee not to exceed the marginal cost to the mechanical licensing collective of providing the database to such person.

''(vi) ADDITIONAL REQUIREMENTS.—The Register of Copyrights shall establish requirements by regulations to ensure the usability, interoperability, and usage restrictions of the musical works database.

''(F) NOTICES OF LICENSE AND NONBLANKET ACTIVITY.—

''(i) NOTICES OF LICENSES.—The mechanical licensing collective shall receive, review, and confirm or reject notices of license from digital music providers, as provided in paragraph (2)(A). The collective shall maintain a current, publicly accessible list of blanket licenses that includes contact information for the licensees and the effective dates of such licenses.

''(ii) NOTICES OF NONBLANKET ACTIVITY.—The mechanical licensing collective shall receive notices of nonblanket activity from significant nonblanket licensees, as provided in paragraph (6)(A). The collective shall maintain a current, publicly accessible list of notices of nonblanket activity that includes contact information for significant nonblanket licensees and the dates of receipt of such notices.

''(G) COLLECTION AND DISTRIBUTION OF ROYALTIES.—

''(i) IN GENERAL.—Upon receiving reports of usage and payments of royalties from digital music providers for covered activities, the mechanical licensing collective shall—

''(I) engage in efforts to—

''(aa) identify the musical works embodied in sound recordings reflected in such reports, and the copyright owners of such musical works (and shares thereof);

''(bb) confirm uses of musical works subject to voluntary licenses and individual download licenses, and the corresponding pro rata amounts to be deducted from royalties that would otherwise be due under the blanket license; and

''(cc) confirm proper payment of royalties due;

''(II) distribute royalties to copyright owners in accordance with the usage and other information contained in such reports, as well as the ownership and other information contained in the records of the collective; and

''(III) deposit into an interest-bearing account, as provided in subparagraph (H)(ii), royalties that cannot be distributed due to—

''(aa) an inability to identify or locate a copyright owner of a musical work (or share thereof); or

''(bb) a pending dispute before the dispute resolution committee of the mechanical licensing collective.

''(ii) OTHER COLLECTION EFFORTS.—Any royalties recovered by the mechanical licensing collective as a result of efforts to enforce rights or obligations under a blanket license, including through a bankruptcy proceeding or other legal action, shall be distributed to copyright owners based on available usage information and in accordance with the procedures described in subclauses (I) and (II) of clause (i), on a pro rata basis in proportion to the overall percentage recovery of the total royalties owed, with any pro rata share of royalties that cannot be distributed deposited in an interest-bearing account as provided in subparagraph (H)(ii).

''(H) HOLDING OF ACCRUED ROYALTIES.—

''(i) HOLDING PERIOD.—The mechanical licensing collective shall hold accrued royalties associated with particular musical works (and shares of works) that remain unmatched for a period of at least 3 years after the date on which the funds were received by the mechanical licensing collective, or at least 3 years after the date on which they were accrued by a digital music provider that subsequently transferred such funds to the mechanical licensing collective pursuant to paragraph (10)(B), whichever period expires sooner.

''(ii) INTEREST-BEARING ACCOUNT.—Accrued royalties for unmatched works (and shares thereof) shall be maintained by the mechanical licensing collective in an interest-bearing account that earns monthly interest at the Federal, short-term rate, such interest to accrue for the benefit of copyright owners entitled to payment of such accrued royalties.

''(I) MUSICAL WORKS CLAIMING PROCESS.—The mechanical licensing collective shall publicize the existence of accrued royalties for unmatched musical works (and shares of such works) within 6 months of receiving a transfer of accrued royalties for such works by publicly listing the works and the procedures by which copyright owners may identify themselves and provide ownership, contact, and other relevant information to the mechanical licensing collective in order to receive payment of accrued royalties. When a copyright owner of an unmatched work (or share of a work) has been identified and located in accordance with the procedures of the mechanical licensing collective, the collective shall—

''(i) update the musical works database and its other records accordingly; and

''(ii) provided that accrued royalties for the musical work (or share thereof) have not yet been included in a distribution pursuant to subparagraph (J)(i), pay such accrued royalties and a proportionate amount of accrued interest associated with that work (or share thereof) to the copyright owner, accompanied by a cumulative statement of account reflecting usage of such work and accrued royalties based on information provided by digital music providers to the mechanical licensing collective.

''(J) DISTRIBUTION OF UNCLAIMED ACCRUED ROYALTIES.—

''(i) DISTRIBUTION PROCEDURES.—After the expiration of the prescribed holding period for accrued royalties provided in paragraph (H)(i), the mechanical licensing collective shall distribute such accrued royalties, along with a proportionate share of accrued interest, to copyright owners identified in the records of the collective, subject to the following requirements, and in accordance with the policies and procedures established under clause (ii):

''(I) The first such distribution shall occur on or after July 1 of the first full calendar year to commence after the license availability date, with at least one such distribution to take place during each calendar year thereafter.

''(II) Copyright owners' payment shares for unclaimed accrued royalties for particular reporting periods shall be determined in a transparent and equitable manner based on data indicating the relative market shares of such copyright owners as reflected by royalty payments made by digital music providers for covered activities for the periods in question, including, in addition to royalty payments made to the mechanical licensing collective, royalty payments made to copyright owners under voluntary licenses and individual download licenses for covered activities, to the extent such information is available to the mechanical licensing collective. In furtherance of the determination of equitable market shares under this subparagraph—

''(aa) the mechanical licensing collective may require copyright owners seeking distributions of unclaimed accrued royalties to provide, or direct the provision of, information concerning royalties received under voluntary licenses and individual download licenses for covered activities, and

''(bb) the mechanical licensing collective shall take appropriate steps to safeguard the confidentiality and security of financial and other sensitive data used to compute market shares in accordance with the confidentiality provisions prescribed by the Register of Copyrights under paragraph (12)(C).

''(ii) ESTABLISHMENT OF DISTRIBUTION POLICIES.—The unclaimed royalties oversight committee established under paragraph (3)(D)(iv) shall establish policies and procedures for the distribution of unclaimed accrued royalties and accrued interest in accordance with this subparagraph, including the provision of usage data to copyright owners to allocate payments and credits to songwriters pursuant to clause (iv), subject to the approval of the board of directors of the mechanical licensing collective.

''(iii) ADVANCE NOTICE OF DISTRIBUTIONS.—The mechanical licensing collective shall publicize a pending distribution of unclaimed accrued royalties and accrued interest at least 90 calendar days in advance of such distribution.

''(iv) SONGWRITER PAYMENTS.—Copyright owners that receive a distribution of unclaimed accrued royalties and accrued interest shall pay or credit a portion to songwriters (or the authorized agents of songwriters) on whose behalf the copyright owners license or administer musical works for covered activities, in accordance with applicable contractual terms, but notwithstanding any agreement to the contrary—

''(I) such payments and credits to songwriters shall be allocated in proportion to reported usage of individual musical works by digital music providers during the reporting periods covered by the distribution from the mechanical licensing collective; and

''(II) in no case shall the payment or credit to an individual songwriter be less than 50 percent of the payment received by the copyright owner attributable to usage of musical works (or shares of works) of that songwriter.

''(K) DISPUTE RESOLUTION.—The dispute resolution committee established under paragraph (3)(D)(v) shall address and resolve in a timely and equitable manner disputes among copyright owners relating to ownership interests in musical works licensed under this section and allocation and distribution of royalties by the mechanical licensing collective, according to a process approved by the board of directors of the mechanical licensing collective. Such process—

''(i) shall include a mechanism to hold disputed funds in accordance with the requirements described in subparagraph (H)(ii) pending resolution of the dispute; and

''(ii) except as provided in paragraph (11)(D), shall not affect any legal or equitable rights or remedies available to any copyright owner or songwriter concerning ownership of, and entitlement to royalties for, a musical work.

''(L) VERIFICATION OF PAYMENTS BY MECHANICAL LICENSING COLLECTIVE.—

''(i) VERIFICATION PROCESS.—A copyright owner entitled to receive payments of royalties for covered activities from the mechanical licensing collective may, individually or with other copyright owners, conduct an audit of the mechanical licensing collective to verify the accuracy of royalty payments by the mechanical licensing collective to such copyright owner, as follows:

''(I) A copyright owner may audit the mechanical licensing collective only once in a year for any or all of the prior 3 calendar

years, and may not audit records for any calendar year more than once.

''(II) The audit shall be conducted by a qualified auditor, who shall perform the audit during the ordinary course of business by examining the books, records, and data of the mechanical licensing collective, according to generally accepted auditing standards and subject to applicable confidentiality requirements prescribed by the Register of Copyrights under paragraph (12)(C).

''(III) The mechanical licensing collective shall make such books, records, and data available to the qualified auditor and respond to reasonable requests for relevant information, and shall use commercially reasonable efforts to facilitate access to relevant information maintained by third parties.

''(IV) To commence the audit, any copyright owner shall file with the Copyright Office a notice of intent to conduct an audit of the mechanical licensing collective, identifying the period of time to be audited, and shall simultaneously deliver a copy of such notice to the mechanical licensing collective. The Register of Copyrights shall cause the notice of audit to be published in the Federal Register within 45 calendar days after receipt.

''(V) The qualified auditor shall determine the accuracy of royalty payments, including whether an underpayment or overpayment of royalties was made by the mechanical licensing collective to each auditing copyright owner, but before providing a final audit report to any such copyright owner, the qualified auditor shall provide a tentative draft of the report to the mechanical licensing collective and allow the mechanical licensing collective a reasonable opportunity to respond to the findings, including by clarifying issues and correcting factual errors.

''(VI) The auditing copyright owner or owners shall bear the cost of the audit. In case of an underpayment to any copyright owner, the mechanical licensing collective shall pay the amounts of any such underpayment to such auditing copyright owner, as appropriate. In case of an overpayment by the mechanical licensing collective, the mechanical licensing collective may debit the account of the auditing copyright owner or owners for such overpaid amounts, or such owner(s) shall refund overpaid amounts to the mechanical licensing collective, as appropriate.

''(ii) ALTERNATIVE VERIFICATION PROCEDURES.—Nothing in this subparagraph shall preclude a copyright owner and the mechanical licensing collective from agreeing to audit procedures different from those described herein, but a notice of the audit shall be provided to and published by the Copyright Office as described in clause (i)(IV).

''(M) RECORDS OF MECHANICAL LICENSING COLLECTIVE.—

''(i) RECORDS MAINTENANCE.—The mechanical licensing collective shall ensure that all material records of its operations, including those relating to notices of license, the administration of its claims process, reports of usage, royalty payments, receipt and maintenance of accrued royalties, royalty distribution processes, and legal matters, are preserved and maintained in a secure and reliable manner, with appropriate commercially reasonable safeguards against unauthorized access, copying, and disclosure, and subject to the confidentiality requirements prescribed by the Register of Copyrights under paragraph (12)(C) for a period of no less than 7 years after the date of creation or receipt, whichever occurs later.

''(ii) RECORDS ACCESS.—The mechanical licensing collective shall provide prompt access to electronic and other records pertaining to the administration of a copyright owner's musical works upon reasonable written request of such owner or the owner's authorized representative.

''(4) TERMS AND CONDITIONS OF BLANKET LICENSE.—A blanket license is subject to, and conditioned upon, the following requirements:

''(A) ROYALTY REPORTING AND PAYMENTS.—

''(i) MONTHLY REPORTS AND PAYMENT.—A digital music provider shall report and pay royalties to the mechanical licensing collective under the blanket license on a monthly basis in accordance with clause (ii) and subsection (c)(2)(I), but the monthly reporting shall be due 45 calendar days, rather than 20 calendar days, after the end of the monthly reporting period.

''(ii) DATA TO BE REPORTED.—In reporting usage of musical works to the mechanical licensing collective, a digital music provider shall provide usage data for musical works used under the blanket license and usage data for musical works used in covered activities under voluntary licenses and individual download licenses. In the report of usage, the digital music provider shall—

''(I) with respect to each sound recording embodying a musical work—

''(aa) provide identifying information for the sound recording, including sound recording name, featured artist and, to the extent acquired by the digital music provider in connection with its use of sound recordings of musical works to engage in covered activities, including pursuant to subparagraph (B), producer, international standard recording code, and other information commonly used in the industry to identify sound recordings and match them to the musical works the sound recordings embody;

''(bb) to the extent acquired by the digital music provider in the metadata in connection with its use of sound recordings of musical works to engage in covered activities, including pursuant to subparagraph (B), provide information concerning authorship and ownership of the applicable rights in the musical work embodied in the sound recording (including each songwriter, publisher name, and respective ownership share) and the international standard musical work code; and

''(cc) provide the number of digital phonorecord deliveries of the sound recording, including limited downloads and interactive streams;

''(II) identify and provide contact information for all musical work copyright owners for works embodied in sound recordings as to which a voluntary license, rather than the blanket license, is in effect with respect to the uses being reported; and

''(III) provide such other information as the Register of Copyrights shall require by regulation.

''(iii) FORMAT AND MAINTENANCE OF REPORTS.—Reports of usage provided by digital music providers to the mechanical licensing collective shall be in a machine-readable format that is compatible with the information technology systems of the mechanical licensing collective and meets the requirements of regulations adopted by the Register of Copyrights. The Register shall also adopt regulations setting forth requirements under which records of use shall be maintained and made available to the mechanical licensing collective by digital music providers engaged in covered activities under a blanket license.

''(iv) ADOPTION OF REGULATIONS.—The Register shall adopt regulations—

''(I) setting forth requirements under which records of use shall be maintained and made available to the mechanical licensing collective by digital music providers engaged in covered activities under a blanket license; and

''(II) regarding adjustments to reports of usage by digital music providers, including mechanisms to account for overpayment and underpayment of royalties in prior periods.

''(B) COLLECTION OF SOUND RECORDING INFORMATION.—A digital music provider shall engage in good-faith, commercially reasonable efforts to obtain from copyright owners of sound recordings made available through the service of such digital music provider—

''(i) sound recording copyright owners, producers, international standard recording codes, and other information commonly used in the industry to identify sound recordings and match them to the musical works the sound recordings embody; and

''(ii) information concerning the authorship and ownership of musical works, including songwriters, publisher names, ownership shares, and international standard musical work codes.

''(C) PAYMENT OF ADMINISTRATIVE ASSESSMENT.—A digital music provider and any significant nonblanket licensee shall pay the administrative assessment established under paragraph (7)(D) in accordance with this subsection and applicable regulations.

''(D) VERIFICATION OF PAYMENTS BY DIGITAL MUSIC PROVIDERS.—

''(i) VERIFICATION PROCESS.—The mechanical licensing collective may conduct an audit of a digital music provider operating under the blanket license to verify the accuracy of royalty payments by the digital music provider to the mechanical licensing collective as follows:

''(I) The mechanical licensing collective may commence an audit of a digital music provider no more than once in any 3-calendar-year period to cover a verification period of no more than the 3 full calendar years preceding the date of commencement of the audit, and such audit may not audit records for any such 3-year verification period more than once.

''(II) The audit shall be conducted by a qualified auditor, who shall perform the audit during the ordinary course of business by examining the books, records, and data of the digital music provider, according to generally accepted auditing standards and subject to applicable confidentiality requirements prescribed by the Register of Copyrights under paragraph (12)(C).

''(III) The digital music provider shall make such books, records, and data available to the qualified auditor and respond to reasonable requests for relevant information, and shall use commercially reasonable efforts to provide access to relevant information maintained with respect to a digital music provider by third parties.

''(IV) To commence the audit, the mechanical licensing collective shall file with the Copyright Office a notice of intent to conduct an audit of the digital music provider, identifying the period of time to be audited, and shall simultaneously deliver a copy of such notice to the digital music provider. The Register of Copyrights shall cause the notice of audit to be published in the Federal Register within 45 calendar days after receipt.

''(V) The qualified auditor shall determine the accuracy of royalty payments, including whether an underpayment or overpayment of royalties was made by the digital music provider to the mechanical licensing collective, but before providing a final audit report to the mechanical licensing collective, the qualified auditor shall provide a tentative draft of the report to the digital music provider and allow the digital music provider a reasonable opportunity to respond to the findings, including by clarifying issues and correcting factual errors.

''(VI) The mechanical licensing collective shall pay the cost of the audit, unless the

qualified auditor determines that there was an underpayment by the digital music provider of 10 percent or more, in which case the digital music provider shall bear the reasonable costs of the audit, in addition to paying the amount of any underpayment to the mechanical licensing collective. In case of an overpayment by the digital music provider, the mechanical licensing collective shall provide a credit to the account of the digital music provider.

''(VII) A digital music provider may not assert section 507 or any other Federal or State statute of limitations, doctrine of laches or estoppel, or similar provision as a defense to a legal action arising from an audit under this subparagraph if such legal action is commenced no more than 6 years after the commencement of the audit that is the basis for such action.

''(ii) ALTERNATIVE VERIFICATION PROCEDURES.—Nothing in this subparagraph shall preclude the mechanical licensing collective and a digital music provider from agreeing to audit procedures different from those described herein, but a notice of the audit shall be provided to and published by the Copyright Office as described in clause (i)(IV).

''(E) DEFAULT UNDER BLANKET LICENSE.—

''(i) CONDITIONS OF DEFAULT.—A digital music provider shall be in default under a blanket license if the digital music provider—

''(I) fails to provide one or more monthly reports of usage to the mechanical licensing collective when due;

''(II) fails to make a monthly royalty or late fee payment to the mechanical licensing collective when due, in all or material part;

''(III) provides one or more monthly reports of usage to the mechanical licensing collective that, on the whole, is or are materially deficient as a result of inaccurate, missing, or unreadable data, where the correct data was available to the digital music provider and required to be reported under this section and applicable regulations;

''(IV) fails to pay the administrative assessment as required under this subsection and applicable regulations; or

''(V) after being provided written notice by the mechanical licensing collective, refuses to comply with any other material term or condition of the blanket license under this section for a period of 60 calendar days or longer.

''(ii) NOTICE OF DEFAULT AND TERMINATION.—In case of a default by a digital music provider, the mechanical licensing collective may proceed to terminate the blanket license of the digital music provider as follows:

''(I) The mechanical licensing collective shall provide written notice to the digital music provider describing with reasonable particularity the default and advising that unless such default is cured within 60 calendar days after the date of the notice, the blanket license will automatically terminate at the end of that period.

''(II) If the digital music provider fails to remedy the default within the 60-day period referenced in subclause (I), the license shall terminate without any further action on the part of the mechanical licensing collective. Such termination renders the making of all digital phonorecord deliveries of all musical works (and shares thereof) covered by the blanket license for which the royalty or administrative assessment has not been paid actionable as acts of infringement under section 501 and subject to the remedies provided by sections 502 through 506.

''(iii) NOTICE TO COPYRIGHT OWNERS.—The mechanical licensing collective shall provide written notice of any termination under this subparagraph to copyright owners of affected works.

''(iv) REVIEW BY FEDERAL DISTRICT COURT.—A digital music provider that believes a blanket license was improperly terminated by the mechanical licensing collective may seek review of such termination in Federal district court. The district court shall determine the matter de novo based on the record before the mechanical licensing collective and any additional supporting evidence presented by the parties.

''(5) DIGITAL LICENSEE COORDINATOR.—

''(A) IN GENERAL.—The digital licensee coordinator shall be a single entity that—

''(i) is a nonprofit, not owned by any other entity, that is created to carry out responsibilities under this subsection;

''(ii) is endorsed by and enjoys substantial support from digital music providers and significant nonblanket licensees that together represent the greatest percentage of the licensee market for uses of musical works in covered activities, as measured over the preceding 3 calendar years;

''(iii) is able to demonstrate that it has, or will have prior to the license availability date, the administrative capabilities to perform the required functions of the digital licensee coordinator under this subsection; and

''(iv) has been designated by the Register of Copyrights in accordance with subparagraph (B).

''(B) DESIGNATION OF DIGITAL LICENSEE COORDINATOR.—

''(i) INITIAL DESIGNATION.—The Register of Copyrights shall initially designate the digital licensee coordinator within 9 months after the enactment date, in accordance with the same procedure described for designation of the mechanical licensing collective in paragraph (3)(B)(i).

''(ii) PERIODIC REVIEW OF DESIGNATION.—Following the initial designation of the digital licensee coordinator, the Register shall, every 5 years, beginning with the fifth full calendar year to commence after the initial designation, determine whether the existing designation should be continued, or a different entity meeting the criteria described in clauses (i) through (iii) of subparagraph (A) should be designated, in accordance with the same procedure described for the mechanical licensing collective in paragraph (3)(B)(ii).

''(iii) INABILITY TO DESIGNATE.—If the Register is unable to identify an entity that fulfills each of the qualifications described in clauses (i) through (iii) of subparagraph (A) to serve as the digital licensee coordinator, the Register may decline to designate a digital licensee coordinator. The Register's determination not to designate a digital licensee coordinator shall not negate or otherwise affect any provision of this subsection except to the limited extent that a provision references the digital licensee coordinator. In such case, the reference to the digital licensee coordinator shall be without effect unless and until a new digital licensee coordinator is designated.

''(C) AUTHORITIES AND FUNCTIONS.—

''(i) IN GENERAL.—The digital licensee coordinator is authorized to perform the following functions, subject to more particular requirements as described in this subsection:

''(I) Establish a governance structure, criteria for membership, and any dues to be paid by its members.

''(II) Engage in efforts to enforce notice and payment obligations with respect to the administrative assessment, including by receiving information from and coordinating with the mechanical licensing collective.

''(III) Initiate and participate in proceedings before the Copyright Royalty Judges to establish the administrative assessment under this subsection.

''(IV) Initiate and participate in proceedings before the Copyright Office with respect to activities under this subsection.

''(V) Gather and provide documentation for use in proceedings before the Copyright Royalty Judges to set rates and terms under this section.

''(VI) Maintain records of its activities.

''(VII) Engage in such other activities as may be necessary or appropriate to fulfill its responsibilities under this subsection.

''(ii) RESTRICTION ON LOBBYING.—The digital licensee coordinator may not engage in government lobbying activities, but may engage in the activities described in subclauses (III), (IV), and (V) of clause (i).

''(6) REQUIREMENTS FOR SIGNIFICANT NONBLANKET LICENSEES.—

''(A) IN GENERAL.—

''(i) NOTICE OF ACTIVITY.—Not later than 45 calendar days after the license availability date, or 45 calendar days after the end of the first full calendar month in which an entity initially qualifies as a significant nonblanket licensee, whichever occurs later, a significant nonblanket licensee shall submit a notice of nonblanket activity to the mechanical licensing collective. The notice of nonblanket activity shall comply in form and substance with requirements that the Register of Copyrights shall establish by regulation, and a copy shall be made available to the digital licensee coordinator.

''(ii) REPORTING AND PAYMENT OBLIGATIONS.—The notice of nonblanket activity submitted to the mechanical licensing collective shall be accompanied by a report of usage that contains the information described in paragraph (4)(A)(ii), as well as any payment of the administrative assessment required under this subsection and applicable regulations. Thereafter, subject to clause (iii), a significant nonblanket licensee shall continue to provide monthly reports of usage, accompanied by any required payment of the administrative assessment, to the mechanical licensing collective. Such reports and payments shall be submitted not later than 45 calendar days after the end of the calendar month being reported.

''(iii) DISCONTINUATION OF OBLIGATIONS.—An entity that has submitted a notice of nonblanket activity to the mechanical licensing collective that has ceased to qualify as a significant nonblanket licensee may so notify the collective in writing. In such case, as of the calendar month in which such notice is provided, such entity shall no longer be required to provide reports of usage or pay the administrative assessment, but if such entity later qualifies as a significant nonblanket licensee, such entity shall again be required to comply with clauses (i) and (ii).

''(B) REPORTING BY MECHANICAL LICENSING COLLECTIVE TO DIGITAL LICENSEE COORDINATOR.—

''(i) MONTHLY REPORTS OF NONCOMPLIANT LICENSEES.—The mechanical licensing collective shall provide monthly reports to the digital licensee coordinator setting forth any significant nonblanket licensees of which the collective is aware that have failed to comply with subparagraph (A).

''(ii) TREATMENT OF CONFIDENTIAL INFORMATION.—The mechanical licensing collective and digital licensee coordinator shall take appropriate steps to safeguard the confidentiality and security of financial and other sensitive data shared under this subparagraph, in accordance with the confidentiality requirements prescribed by the Register of Copyrights under paragraph (12)(C).

''(C) LEGAL ENFORCEMENT EFFORTS.—

''(i) FEDERAL COURT ACTION.—Should the mechanical licensing collective or digital licensee coordinator become aware that a significant nonblanket licensee has failed to

comply with subparagraph (A), either may commence an action in Federal district court for damages and injunctive relief. If the significant nonblanket licensee is found liable, the court shall, absent a finding of excusable neglect, award damages in an amount equal to three times the total amount of the unpaid administrative assessment and, notwithstanding anything to the contrary in section 505, reasonable attorney's fees and costs, as well as such other relief as the court deems appropriate. In all other cases, the court shall award relief as appropriate. Any recovery of damages shall be payable to the mechanical licensing collective as an offset to the collective total costs.

''(ii) STATUTE OF LIMITATIONS FOR ENFORCEMENT ACTION.—Any action described in this subparagraph shall be commenced within the time period described in section 507(b).

''(iii) OTHER RIGHTS AND REMEDIES PRESERVED.—The ability of the mechanical licensing collective or digital licensee coordinator to bring an action under this subparagraph shall in no way alter, limit or negate any other right or remedy that may be available to any party at law or in equity.

''(7) FUNDING OF MECHANICAL LICENSING COLLECTIVE.—

''(A) IN GENERAL.—The collective total costs shall be funded by—

''(i) an administrative assessment, as such assessment is established by the Copyright Royalty Judges pursuant to subparagraph (D) from time to time, to be paid by—

''(I) digital music providers that are engaged, in all or in part, in covered activities pursuant to a blanket license; and

''(II) significant nonblanket licensees; and

''(ii) voluntary contributions from digital music providers and significant nonblanket licensees as may be agreed with copyright owners.

''(B) VOLUNTARY CONTRIBUTIONS.—

''(i) AGREEMENTS CONCERNING CONTRIBUTIONS.—Except as provided in clause (ii), voluntary contributions by digital music providers and significant nonblanket licensees shall be determined by private negotiation and agreement, and the following conditions apply:

''(I) The date and amount of each voluntary contribution to the mechanical licensing collective shall be documented in a writing signed by an authorized agent of the mechanical licensing collective and the contributing party.

''(II) Such agreement shall be made available as required in proceedings before the Copyright Royalty Judges to establish or adjust the administrative assessment in accordance with applicable statutory and regulatory provisions and rulings of the Copyright Royalty Judges.

''(ii) TREATMENT OF CONTRIBUTIONS.—Each such voluntary contribution shall be treated for purposes of an administrative assessment proceeding as an offset to the collective total costs that would otherwise be recovered through the administrative assessment. Any allocation or reallocation of voluntary contributions between or among individual digital music providers or significant nonblanket licensees shall be a matter of private negotiation and agreement among such parties and outside the scope of the administrative assessment proceeding.

''(C) INTERIM APPLICATION OF ACCRUED ROYALTIES.—In the event that the administrative assessment, together with any funding from voluntary contributions as provided in subparagraphs (A) and (B), is inadequate to cover current collective total costs, the collective, with approval of its board of directors, may apply unclaimed accrued royalties on an interim basis to defray such costs, subject to future reimbursement of such royalties from future collections of the assessment.

''(D) DETERMINATION OF ADMINISTRATIVE ASSESSMENT.—

''(i) ADMINISTRATIVE ASSESSMENT TO COVER COLLECTIVE TOTAL COSTS.—The administrative assessment shall be used solely and exclusively to fund the collective total costs.

''(ii) SEPARATE PROCEEDING BEFORE COPYRIGHT ROYALTY JUDGES.—The amount and terms of the administrative assessment shall be determined and established in a separate and independent proceeding before the Copyright Royalty Judges, according to the procedures described in clauses (iii) and (iv). The administrative assessment determined in such proceeding shall—

''(I) be wholly independent of royalty rates and terms applicable to digital music providers, which shall not be taken into consideration in any manner in establishing the administrative assessment;

''(II) be established by the Copyright Royalty Judges in an amount that is calculated to defray the reasonable collective total costs;

''(III) be assessed based on usage of musical works by digital music providers and significant nonblanket licensees in covered activities under both compulsory and nonblanket licenses;

''(IV) may be in the form of a percentage of royalties payable under this section for usage of musical works in covered activities (regardless of whether a different rate applies under a voluntary license), or any other usage-based metric reasonably calculated to equitably allocate the collective total costs across digital music providers and significant nonblanket licensees engaged in covered activities, but shall include as a component a minimum fee for all digital music providers and significant nonblanket licensees; and

''(V) take into consideration anticipated future collective total costs and collections of the administrative assessment, but also, as applicable—

''(aa) any portion of past actual collective total costs of the mechanical licensing collective not funded by previous collections of the administrative assessment or voluntary contributions because such collections or contributions together were insufficient to fund such costs;

''(bb) any past collections of the administrative assessment and voluntary contributions that exceeded past actual collective total costs, resulting in a surplus; and

''(cc) the amount of any voluntary contributions by digital music providers or significant nonblanket licensees in relevant periods, described in subparagraphs (A) and (B) of paragraph (7).

''(iii) INITIAL ADMINISTRATIVE ASSESSMENT.—The procedure for establishing the initial administrative assessment shall be as follows:

''(I) The Copyright Royalty Judges shall commence a proceeding to establish the initial administrative assessment within 9 months after the enactment date by publishing a notice in the Federal Register seeking petitions to participate.

''(II) The mechanical licensing collective and digital licensee coordinator shall participate in such proceeding, along with any interested copyright owners, digital music providers or significant nonblanket licensees that have notified the Copyright Royalty Judges of their desire to participate.

''(III) The Copyright Royalty Judges shall establish a schedule for submission by the parties of information that may be relevant to establishing the administrative assessment, including actual and anticipated collective total costs of the mechanical licensing collective, actual and anticipated collections from digital music providers and significant nonblanket licensees, and documentation of voluntary contributions, as well as a schedule for further proceedings, which shall include a hearing, as they deem appropriate.

''(IV) The initial administrative assessment shall be determined, and such determination shall be published in the Federal Register by the Copyright Royalty Judges, within 1 year after commencement of the proceeding described in this clause. The determination shall be supported by a written record. The initial administrative assessment shall be effective as of the license availability date, and shall continue in effect unless and until an adjusted administrative assessment is established pursuant to an adjustment proceeding under clause (iii).

''(iv) ADJUSTMENT OF ADMINISTRATIVE ASSESSMENT.—The administrative assessment may be adjusted by the Copyright Royalty Judges periodically, in accordance with the following procedures:

''(I) No earlier than one year after the most recent publication of a determination of the administrative assessment by the Copyright Royalty Judges, the mechanical licensing collective, the digital licensee coordinator, or one or more interested copyright owners, digital music providers, or significant nonblanket licensees, may file a petition with the Copyright Royalty Judges in the month of October to commence a proceeding to adjust the administrative assessment.

''(II) Notice of the commencement of such proceeding shall be published in the Federal Register in the month of November following the filing of any petition, with a schedule of requested information and additional proceedings, as described in clause (iii)(III). The mechanical licensing collective and digital licensee coordinator shall participate in such proceeding, along with any interested copyright owners, digital music providers, or significant nonblanket licensees that have notified the Copyright Royalty Judges of their desire to participate.

''(III) The determination of the adjusted administrative assessment, which shall be supported by a written record, shall be published in the Federal Register during November of the calendar year following the commencement of the proceeding. The adjusted administrative assessment shall take effect January 1 of the year following such publication.

''(v) ADOPTION OF VOLUNTARY AGREEMENTS.—In lieu of reaching their own determination based on evaluation of relevant data, the Copyright Royalty Judges shall approve and adopt a negotiated agreement to establish the amount and terms of the administrative assessment that has been agreed to by the mechanical licensing collective and the digital licensee coordinator (or if none has been designated, interested digital music providers and significant nonblanket licensees representing more than half of the market for uses of musical works in covered activities), but the Copyright Royalty Judges shall have the discretion to reject any such agreement for good cause shown. An administrative assessment adopted under this clause shall apply to all digital music providers and significant nonblanket licensees engaged in covered activities during the period it is in effect.

''(vi) CONTINUING AUTHORITY TO AMEND.—The Copyright Royalty Judges shall retain continuing authority to amend a determination of an administrative assessment to correct technical or clerical errors, or modify the terms of implementation, for good cause, with any such amendment to be published in the Federal Register.

''(vii) APPEAL OF ADMINISTRATIVE ASSESSMENT.—The determination of an administrative assessment by the Copyright Royalty Judges shall be appealable, within 30 calendar days after publication in the Federal Register, to the Court of Appeals for the District of Columbia Circuit by any party that fully participated in the proceeding. The administrative assessment as established by the Copyright Royalty Judges shall remain in effect pending the final outcome of any such appeal, and the mechanical licensing collective, digital licensee coordinator, digital music providers, and significant nonblanket licensees shall implement appropriate financial or other measures within 3 months after any modification of the assessment to reflect and account for such outcome.

''(viii) REGULATIONS.—The Copyright Royalty Judges may adopt regulations to govern the conduct of proceedings under this paragraph.

''(8) ESTABLISHMENT OF RATES AND TERMS UNDER BLANKET LICENSE.—

''(A) RESTRICTIONS ON RATESETTING PARTICIPATION.—Neither the mechanical licensing collective nor the digital licensee coordinator shall be a party to a proceeding described in subsection (c)(1)(E), but either may gather and provide financial and other information for the use of a party to such a proceeding and comply with requests for information as required under applicable statutory and regulatory provisions and rulings of the Copyright Royalty Judges.

''(B) APPLICATION OF LATE FEES.—In any proceeding described in subparagraph (A) in which the Copyright Royalty Judges establish a late fee for late payment of royalties for uses of musical works under this section, such fee shall apply to covered activities under blanket licenses, as follows:

''(i) Late fees for past due royalty payments shall accrue from the due date for payment until payment is received by the mechanical licensing collective.

''(ii) The availability of late fees shall in no way prevent a copyright owner or the mechanical licensing collective from asserting any other rights or remedies to which such copyright owner or the mechanical licensing collective may be entitled under this title.

''(C) INTERIM RATE AGREEMENTS IN GENERAL.—For any covered activity for which no rate or terms have been established by the Copyright Royalty Judges, the mechanical licensing collective and any digital music provider may agree to an interim rate and terms for such activity under the blanket license, and any such rate and terms—

''(i) shall be treated as nonprecedential and not cited or relied upon in any ratesetting proceeding before the Copyright Royalty Judges or any other tribunal; and

''(ii) shall automatically expire upon the establishment of a rate and terms for such covered activity by the Copyright Royalty Judges, under subsection (c)(1)(E).

''(D) ADJUSTMENTS FOR INTERIM RATES.—The rate and terms established by the Copyright Royalty Judges for a covered activity to which an interim rate and terms have been agreed under subparagraph (C) shall supersede the interim rate and terms and apply retroactively to the inception of the activity under the blanket license. In such case, within 3 months after the rate and terms established by the Copyright Royalty Judges become effective—

''(i) if the rate established by the Copyright Royalty Judges exceeds the interim rate, the digital music provider shall pay to the mechanical licensing collective the amount of any underpayment of royalties due; or

''(ii) if the interim rate exceeds the rate established by the Copyright Royalty Judges, the mechanical licensing collective shall credit the account of the digital music provider for the amount of any overpayment of royalties due.

''(9) TRANSITION TO BLANKET LICENSES.—

''(A) SUBSTITUTION OF BLANKET LICENSE.—On the license availability date, a blanket license shall, without any interruption in license authority enjoyed by such digital music provider, be automatically substituted for and supersede any existing compulsory license previously obtained under this section by the digital music provider from a copyright owner to engage in one or more covered activities with respect to a musical work, but the foregoing shall not apply to any authority obtained from a record company pursuant to a compulsory license to make and distribute permanent downloads unless and until such record company terminates such authority in writing to take effect at the end of a monthly reporting period, with a copy to the mechanical licensing collective.

''(B) EXPIRATION OF EXISTING LICENSES.—Except to the extent provided in subparagraph (A), on and after the license availability date, licenses other than individual download licenses obtained under this section for covered activities prior to the license availability date shall no longer continue in effect.

''(C) TREATMENT OF VOLUNTARY LICENSES.—A voluntary license for a covered activity in effect on the license availability date will remain in effect unless and until the voluntary license expires according to the terms of the voluntary license, or the parties agree to amend or terminate the voluntary license. In a case where a voluntary license for a covered activity entered into before the license availability date incorporates the terms of this section by reference, the terms so incorporated (but not the rates) shall be those in effect immediately prior to the license availability date, and those terms shall continue to apply unless and until such voluntary license is terminated or amended, or the parties enter into a new voluntary license.

''(D) FURTHER ACCEPTANCE OF NOTICES FOR COVERED ACTIVITIES BY COPYRIGHT OFFICE.—On and after the enactment date—

''(i) the Copyright Office shall no longer accept notices of intention with respect to covered activities; and

''(ii) previously filed notices of intention will no longer be effective or provide license authority with respect to covered activities, but before the license availability date there shall be no liability under section 501 for the reproduction or distribution of a musical work (or share thereof) in covered activities if a valid notice of intention was filed for such work (or share) before the enactment date.

''(10) PRIOR UNLICENSED USES.—

''(A) LIMITATION ON LIABILITY IN GENERAL.—A copyright owner that commences an action under section 501 on or after January 1, 2018, against a digital music provider for the infringement of the exclusive rights provided by paragraph (1) or (3) of section 106 arising from the unauthorized reproduction or distribution of a musical work by such digital music provider in the course of engaging in covered activities prior to the license availability date, shall, as the copyright owner's sole and exclusive remedy against the digital music provider, be eligible to recover the royalty prescribed under subsection (c)(1)(C) and chapter 8 of this title, from the digital music provider, provided that such digital music provider can demonstrate compliance with the requirements of subparagraph (B), as applicable. In all other cases the limitation on liability under this subparagraph shall not apply.

''(B) REQUIREMENTS FOR LIMITATION ON LIABILITY.—The following requirements shall apply on the enactment date and through the end of the period that expires 90 days after the license availability date to digital music providers seeking to avail themselves of the limitation on liability described in subparagraph (A):

''(i) No later than 30 calendar days after first making a particular sound recording of a musical work available through its service via one or more covered activities, or 30 calendar days after the enactment date, whichever occurs later, a digital music provider shall engage in good-faith, commercially reasonable efforts to identify and locate each copyright owner of such musical work (or share thereof). Such required matching efforts shall include the following:

''(I) Good-faith, commercially reasonable efforts to obtain from the owner of the corresponding sound recording made available through the digital music provider's service the following information:

''(aa) Sound recording name, featured artist, sound recording copyright owner, producer, international standard recording code, and other information commonly used in the industry to identify sound recordings and match them to the musical works they embody.

''(bb) Any available musical work ownership information, including each songwriter and publisher name, percentage ownership share, and international standard musical work code.

''(II) Employment of one or more bulk electronic matching processes that are available to the digital music provider through a third-party vendor on commercially reasonable terms, but a digital music provider may rely on its own bulk electronic matching process if it has capabilities comparable to or better than those available from a third-party vendor on commercially reasonable terms.

''(ii) The required matching efforts shall be repeated by the digital music provider no less than once per month for so long as the copyright owner remains unidentified or has not been located.

''(iii) If the required matching efforts are successful in identifying and locating a copyright owner of a musical work (or share thereof) by the end of the calendar month in which the digital music provider first makes use of the work, the digital music provider shall provide statements of account and pay royalties to such copyright owner in accordance with this section and applicable regulations.

''(iv) If the copyright owner is not identified or located by the end of the calendar month in which the digital music provider first makes use of the work, the digital music provider shall accrue and hold royalties calculated under the applicable statutory rate in accordance with usage of the work, from initial use of the work until the accrued royalties can be paid to the copyright owner or are required to be transferred to the mechanical licensing collective, as follows:

''(I) Accrued royalties shall be maintained by the digital music provider in accordance with generally accepted accounting principles.

''(II) If a copyright owner of an unmatched musical work (or share thereof) is identified and located by or to the digital music provider before the license availability date, the digital music provider shall—

''(aa) within 45 calendar days after the end of the calendar month during which the copyright owner was identified and located, pay the copyright owner all accrued royalties, such payment to be accompanied by a cumulative statement of account that includes all of the information that would have been provided to the copyright owner had

the digital music provider been providing monthly statements of account to the copyright owner from initial use of the work in accordance with this section and applicable regulations, including the requisite certification under subsection (c)(2)(I);

''(bb) beginning with the accounting period following the calendar month in which the copyright owner was identified and located, and for all other accounting periods prior to the license availability date, provide monthly statements of account and pay royalties to the copyright owner as required under this section and applicable regulations; and

''(cc) beginning with the monthly royalty reporting period commencing on the license availability date, report usage and pay royalties for such musical work (or share thereof) for such reporting period and reporting periods thereafter to the mechanical licensing collective, as required under this subsection and applicable regulations.

''(III) If a copyright owner of an unmatched musical work (or share thereof) is not identified and located by the license availability date, the digital music provider shall—

''(aa) within 45 calendar days after the license availability date, transfer all accrued royalties to the mechanical licensing collective, such payment to be accompanied by a cumulative statement of account that includes all of the information that would have been provided to the copyright owner had the digital music provider been serving monthly statements of account on the copyright owner from initial use of the work in accordance with this section and applicable regulations, including the requisite certification under subsection (c)(2)(I), and accompanied by an additional certification by a duly authorized officer of the digital music provider that the digital music provider has fulfilled the requirements of clauses (i) and (ii) of subparagraph (B) but has not been successful in locating or identifying the copyright owner; and

''(bb) beginning with the monthly royalty reporting period commencing on the license availability date, report usage and pay royalties for such musical work (or share thereof) for such period and reporting periods thereafter to the mechanical licensing collective, as required under this subsection and applicable regulations.

''(v) SUSPENSION OF LATE FEES.—A digital music provider that complies with the requirements of this paragraph with respect to unmatched musical works (or shares of works) shall not be liable for or accrue late fees for late payments of royalties for such works until such time as the digital music provider is required to begin paying monthly royalties to the copyright owner or the mechanical licensing collective, as applicable.

''(C) ADJUSTED STATUTE OF LIMITATIONS.—Notwithstanding anything to the contrary in section 507(b), with respect to any claim of infringement of the exclusive rights provided by paragraphs (1) and (3) of section 106 against a digital music provider arising from the unauthorized reproduction or distribution of a musical work by such digital music provider to engage in covered activities that accrued no more than 3 years prior to the license availability date, such action may be commenced within 3 years of the date the claim accrued, or up to 2 years after the license availability date, whichever is later.

''(D) OTHER RIGHTS AND REMEDIES PRESERVED.—Except as expressly provided in this paragraph, nothing in this paragraph shall be construed to alter, limit, or negate any right or remedy of a copyright owner with respect to unauthorized use of a musical work.

''(11) LEGAL PROTECTIONS FOR LICENSING ACTIVITIES.—

''(A) EXEMPTION FOR COMPULSORY LICENSE ACTIVITIES.—The antitrust exemption described in subsection (c)(1)(D) shall apply to negotiations and agreements between and among copyright owners and persons entitled to obtain a compulsory license for covered activities, and common agents acting on behalf of such copyright owners or persons, including with respect to the administrative assessment established under this subsection.

''(B) LIMITATION ON COMMON AGENT EXEMPTION.—Notwithstanding the antitrust exemption provided in subsection (c)(1)(D) and subparagraph (A) (except for the administrative assessment referenced therein and except as provided in paragraph (8)(C)), neither the mechanical licensing collective nor the digital licensee coordinator shall serve as a common agent with respect to the establishment of royalty rates or terms under this section.

''(C) ANTITRUST EXEMPTION FOR ADMINISTRATIVE ACTIVITIES.—Notwithstanding any provision of the antitrust laws, copyright owners and persons entitled to obtain a compulsory license under this section may designate the mechanical licensing collective to administer voluntary licenses for the reproduction or distribution of musical works in covered activities on behalf of such copyright owners and persons, but the following conditions apply:

''(i) Each copyright owner shall establish the royalty rates and material terms of any such voluntary license individually and not in agreement, combination, or concert with any other copyright owner.

''(ii) Each person entitled to obtain a compulsory license under this section shall establish the royalty rates and material terms of any such voluntary license individually and not in agreement, combination, or concert with any other digital music provider.

''(iii) The mechanical licensing collective shall maintain the confidentiality of the voluntary licenses in accordance with the confidentiality provisions prescribed by the Register of Copyrights under paragraph (12)(C).

''(D) LIABILITY FOR GOOD-FAITH ACTIVITIES.—The mechanical licensing collective shall not be liable to any person or entity based on a claim arising from its good-faith administration of policies and procedures adopted and implemented to carry out the responsibilities described in subparagraphs (J) and (K) of paragraph (3), except to the extent of correcting an underpayment or overpayment of royalties as provided in paragraph (3)(L)(i)(VI), but the collective may participate in a legal proceeding as a stakeholder party if the collective is holding funds that are the subject of a dispute between copyright owners. For purposes of this subparagraph, 'good-faith administration' means administration in a manner that is not grossly negligent.

''(E) PREEMPTION OF STATE PROPERTY LAWS.—The holding and distribution of funds by the mechanical licensing collective in accordance with this subsection shall supersede and preempt any State law (including common law) concerning escheatment or abandoned property, or any analogous provision, that might otherwise apply.

''(F) RULE OF CONSTRUCTION.—Except as expressly provided in this subsection, nothing in this subsection shall negate or limit the ability of any person to pursue an action in Federal court against the mechanical licensing collective or any other person based upon a claim arising under this title or other applicable law.

''(12) REGULATIONS.—

''(A) ADOPTION BY REGISTER OF COPYRIGHTS AND COPYRIGHT ROYALTY JUDGES.—The Register of Copyrights may conduct such proceedings and adopt such regulations as may be necessary or appropriate to effectuate the provisions of this subsection, except for regulations concerning proceedings before the Copyright Royalty Judges to establish the administrative assessment, which shall be adopted by the Copyright Royalty Judges.

''(B) JUDICIAL REVIEW OF REGULATIONS.—Except as provided in paragraph (7)(D)(vii), regulations adopted under this subsection shall be subject to judicial review pursuant to chapter 7 of title 5.

''(C) PROTECTION OF CONFIDENTIAL INFORMATION.—The Register of Copyrights shall adopt regulations to provide for the appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in the records of the mechanical licensing collective and digital licensee coordinator is not improperly disclosed or used, including through any disclosure or use by the board of directors or personnel of either entity, and specifically including the unclaimed royalties oversight committee and the dispute resolution committee of the mechanical licensing collective.

''(13) SAVINGS CLAUSES.—

''(A) LIMITATION ON ACTIVITIES AND RIGHTS COVERED.—This subsection applies solely to uses of musical works subject to licensing under this section. The blanket license shall not be construed to extend or apply to activities other than covered activities or to rights other than the exclusive rights of reproduction and distribution licensed under this section, or serve or act as the basis to extend or expand the compulsory license under this section to activities and rights not covered by this section on the enactment date.

''(B) RIGHTS OF PUBLIC PERFORMANCE NOT AFFECTED.—The rights, protections, and immunities granted under this subsection, the data concerning musical works collected and made available under this subsection, and the definitions described in subsection (e) shall not extend to, limit, or otherwise affect any right of public performance in a musical work.''; and

(5) by adding at the end the following new subsection:

''(e) DEFINITIONS.—As used in this section:

''(1) ACCRUED INTEREST.—The term 'accrued interest' means interest accrued on accrued royalties, as described in subsection (d)(3)(H)(ii).

''(2) ACCRUED ROYALTIES.—The term 'accrued royalties' means royalties accrued for the reproduction or distribution of a musical work (or share thereof) in a covered activity, calculated in accordance with the applicable royalty rate under this section.

''(3) ADMINISTRATIVE ASSESSMENT.—The term 'administrative assessment' means the fee established pursuant to subsection (d)(7)(D).

''(4) AUDIT.—The term 'audit' means a royalty compliance examination to verify the accuracy of royalty payments, or the conduct of such an examination, as applicable.

''(5) BLANKET LICENSE.—The term 'blanket license' means a compulsory license described in subsection (d)(1)(A) to engage in covered activities.

''(6) COLLECTIVE TOTAL COSTS.—The term 'collective total costs'—

''(A) means the total costs of establishing, maintaining, and operating the mechanical licensing collective to fulfill its statutory functions, including—

''(i) startup costs;

''(ii) financing, legal, and insurance costs;

''(iii) investments in information technology, infrastructure, and other long-term resources;

''(iv) outside vendor costs;

''(v) costs of licensing, royalty administration, and enforcement of rights;

''(vi) costs of bad debt; and

''(vii) costs of automated and manual efforts to identify and locate copyright owners of musical works (and shares of such musical works) and match sound recordings to the musical works the sound recordings embody; and

''(B) does not include any added costs incurred by the mechanical licensing collective to provide services under voluntary licenses.

''(7) COVERED ACTIVITY.—The term 'covered activity' means the activity of making a digital phonorecord delivery of a musical work, including in the form of a permanent download, limited download, or interactive stream, where such activity qualified for a compulsory license under this section.

''(8) DIGITAL MUSIC PROVIDER.—The term 'digital music provider' means a person (or persons operating under the authority of that person) that, with respect to a service engaged in covered activities—

''(A) has a direct contractual, subscription, or other economic relationship with end users of the service, or, if no such relationship with end users exists, exercises direct control over the provision of the service to end users;

''(B) is able to fully report on any revenues and consideration generated by the service; and

''(C) is able to fully report on usage of sound recordings of musical works by the service (or procure such reporting).

''(9) DIGITAL LICENSEE COORDINATOR.—The term 'digital licensee coordinator' means the entity most recently designated pursuant to subsection (d)(5).

''(10) DIGITAL PHONORECORD DELIVERY.—The term 'digital phonorecord delivery' means each individual delivery of a phonorecord by digital transmission of a sound recording that results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any musical work embodied therein, and includes a permanent download, a limited download, or an interactive stream. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible. A digital phonorecord delivery does not include the digital transmission of sounds accompanying a motion picture or other audiovisual work as defined in section 101 of this title.

''(11) ENACTMENT DATE.—The term 'enactment date' means the date of the enactment of the Musical Works Modernization Act.

''(12) INDIVIDUAL DOWNLOAD LICENSE.—The term 'individual download license' means a compulsory license obtained by a record company to make and distribute, or authorize the making and distribution of, permanent downloads embodying a specific individual musical work.

''(13) INTERACTIVE STREAM.—The term 'interactive stream' means a digital transmission of a sound recording of a musical work in the form of a stream, where the performance of the sound recording by means of such transmission is not exempt under section 114(d)(1) and does not in itself, or as a result of a program in which it is included, qualify for statutory licensing under section 114(d)(2). An interactive stream is a digital phonorecord delivery.

''(14) INTERESTED.—The term 'interested', as applied to a party seeking to participate in a proceeding under subsection (d)(7)(D), is a party as to which the Copyright Royalty Judges have not determined that the party lacks a significant interest in such proceeding.

''(15) LICENSE AVAILABILITY DATE.—The term 'license availability date' means the next January 1 following the expiration of the two-year period beginning on the enactment date.

''(16) LIMITED DOWNLOAD.—The term 'limited download' means a digital transmission of a sound recording of a musical work in the form of a download, where such sound recording is accessible for listening only for a limited amount of time or specified number of times.

''(17) MATCHED.—The term 'matched', as applied to a musical work (or share thereof), means that the copyright owner of such work (or share thereof) has been identified and located.

''(18) MECHANICAL LICENSING COLLECTIVE.—The term 'mechanical licensing collective' means the entity most recently designated as such by the Register of Copyrights under subsection (d)(3).

''(19) MECHANICAL LICENSING COLLECTIVE BUDGET.—The term 'mechanical licensing collective budget' means a statement of the financial position of the mechanical licensing collective for a fiscal year or quarter thereof based on estimates of expenditures during the period and proposals for financing them, including a calculation of the collective total costs.

''(20) MUSICAL WORKS DATABASE.—The term 'musical works database' means the database described in subsection (d)(3)(E).

''(21) NONPROFIT.—The term 'nonprofit' means a nonprofit created or organized in a State.

''(22) NOTICE OF LICENSE.—The term 'notice of license' means a notice from a digital music provider provided under subsection (d)(2)(A) for purposes of obtaining a blanket license.

''(23) NOTICE OF NONBLANKET ACTIVITY.—The term 'notice of nonblanket activity' means a notice from a significant nonblanket licensee provided under subsection (d)(6)(A) for purposes of notifying the mechanical licensing collective that the licensee has been engaging in covered activities.

''(24) PERMANENT DOWNLOAD.—The term 'permanent download' means a digital transmission of a sound recording of a musical work in the form of a download, where such sound recording is accessible for listening without restriction as to the amount of time or number of times it may be accessed.

''(25) QUALIFIED AUDITOR.—The term 'qualified auditor' means an independent, certified public accountant with experience performing music royalty audits.

''(26) RECORD COMPANY.—The term 'record company' means an entity that invests in, produces, and markets sound recordings of musical works, and distributes such sound recordings for remuneration through multiple sales channels, including a corporate affiliate of such an entity engaged in distribution of sound recordings.

''(27) REPORT OF USAGE.—The term 'report of usage' means a report reflecting an entity's usage of musical works in covered activities described in subsection (d)(4)(A).

''(28) REQUIRED MATCHING EFFORTS.—The term 'required matching efforts' means efforts to identify and locate copyright owners of musical works as described in subsection (d)(10)(B)(i).

''(29) SERVICE.—The term 'service', as used in relation to covered activities, means any site, facility, or offering by or through which sound recordings of musical works are digitally transmitted to members of the public.

''(30) SHARE.—The term 'share', as applied to a musical work, means a fractional ownership interest in such work.

''(31) SIGNIFICANT NONBLANKET LICENSEE.—The term 'significant nonblanket licensee'—

''(A) means an entity, including a group of entities under common ownership or control that, acting under the authority of one or more voluntary licenses or individual download licenses, offers a service engaged in covered activities, and such entity or group of entities—

''(i) is not currently operating under a blanket license and is not obligated to provide reports of usage reflecting covered activities under subsection (d)(4)(A);

''(ii) has a direct contractual, subscription, or other economic relationship with end users of the service or, if no such relationship with end users exists, exercises direct control over the provision of the service to end users; and

''(iii) either—

''(I) on any day in a calendar month, makes more than 5,000 different sound recordings of musical works available through such service; or

''(II) derives revenue or other consideration in connection with such covered activities greater than $50,000 in a calendar month, or total revenue or other consideration greater than $500,000 during the preceding 12 calendar months; and

''(B) does not include—

''(i) an entity whose covered activity consists solely of free-to-the-user streams of segments of sound recordings of musical works that do not exceed 90 seconds in length, are offered only to facilitate a licensed use of musical works that is not a covered activity, and have no revenue directly attributable to such streams constituting the covered activity; or

''(ii) a 'public broadcasting entity' as defined in section 118(f).

''(32) SONGWRITER.—The term 'songwriter' means the author of all or part of a musical work, including a composer or lyricist.

''(33) STATE.—The term 'State' means each State of the United States, the District of Columbia, and each territory or possession of the United States.

''(34) UNCLAIMED ACCRUED ROYALTIES.—The term 'unclaimed accrued royalties' means accrued royalties eligible for distribution under subsection (d)(3)(J).

''(35) UNMATCHED.—The term 'unmatched', as applied to a musical work (or share thereof), means that the copyright owner of such work (or share thereof) has not been identified or located.

''(36) VOLUNTARY LICENSE.—The term 'voluntary license' means a license for use of a musical work (or share thereof) other than a compulsory license obtained under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS TO SECTION 801.—Section 801(b) of title 17, United States Code, is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following new paragraph:

''(8) To determine the administrative assessment to be paid by digital music providers under section 115(d). The provisions of section 115(d) shall apply to the conduct of proceedings by the Copyright Royalty Judges under section 115(d) and not the procedures described in this section, or section 803, 804, or 805.''.

(c) EFFECTIVE DATE OF AMENDED RATE SETTING STANDARD.—The amendments made by subsections (a)(3)(D) and (b)(1) shall apply to any proceeding before the Copyright Royalty

Judges that is pending on, or commenced on or after, the date of the enactment of this Act.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 37, PART 385 OF THE CODE OF FEDERAL REGULATIONS.—Within 9 months after the date of the enactment of this Act, the Copyright Royalty Judges shall amend the regulations for section 115 in part 385 of title 37, Code of Federal Regulations to conform the definitions used in such part to the definitions of the same terms described in section 115(e) of title 17, United States Code, as amended by subsection (a). In so doing, the Copyright Royalty Judges shall make adjustments to the language of the regulations as necessary to achieve the same purpose and effect as the original regulations with respect to the rates and terms previously adopted by the Copyright Royalty Judges.

**SEC. 103. AMENDMENTS TO SECTION 114.**

(a) UNIFORM RATE STANDARD.—Section 114(f) of title 17, United States Code, is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1)(A) Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for transmissions subject to statutory licensing under subsection (d)(2) during the 5-year period beginning on January 1 of the second year following the year in which the proceedings are to be commenced pursuant to subparagraph (A) or (B) of section 804(b)(3), as the case may be, or such other period as the parties may agree. The parties to each proceeding shall bear their own costs.

''(B) The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (2), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), or such other period as the parties may agree. Such rates and terms shall distinguish among the different types of services then in operation and shall include a minimum fee for each such type of service, such differences to be based on criteria including the quantity and nature of the use of sound recordings and the degree to which use of the service may substitute for or may promote the purchase of phonorecords by consumers. The Copyright Royalty Judges shall establish rates and terms that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller. In determining such rates and terms, the Copyright Royalty Judges—

''(i) shall base their decision on economic, competitive, and programming information presented by the parties, including—

''(I) whether use of the service may substitute for or may promote the sales of phonorecords or otherwise may interfere with or may enhance the sound recording copyright owner's other streams of revenue from the copyright owner's sound recordings; and

''(II) the relative roles of the copyright owner and the transmitting entity in the copyrighted work and the service made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, and risk; and

''(ii) may consider the rates and terms for comparable types of audio transmission services and comparable circumstances under voluntary license agreements.

''(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any sound recording copyright owner or any transmitting entity indicating that a new type of service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for eligible nonsubscription services and new subscription services, or preexisting services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.''; and

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(b) REPEAL.—Subsection (i) of section 114 of title 17, United States Code, is repealed.

(c) USE IN MUSICAL WORK PROCEEDINGS.—

(1) IN GENERAL.—License fees payable for the public performance of sound recordings under section 106(6) of title 17, United States Code, shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to musical work copyright owners for the public performance of their works except in such a proceeding to set or adjust royalties for the public performance of musical works by means of a digital audio transmission other than a transmission by a broadcaster, and may be taken into account only with respect to such digital audio transmission.

(2) DEFINITIONS.—In this subsection:

(A) TRANSMISSION BY A BROADCASTER.—A ''transmission by a broadcaster'' means a nonsubscription digital transmission made by a terrestrial broadcast station on its own behalf, or on the behalf of a terrestrial broadcast station under common ownership or control, that is not part of an interactive service or a music-intensive service comprising the transmission of sound recordings customized for or customizable by recipients or service users.

(B) TERRESTRIAL BROADCAST STATION.—A ''terrestrial broadcast station'' means a terrestrial, over-the-air radio or television broadcast station, licensed as such by the Federal Communications Commission, including an FM Translator as defined in section 74.1231 of title 47, Code of Federal Regulations, and whose primary business activities are comprised of, and revenues are generated through, terrestrial, over-the-air broadcast transmissions, or the simultaneous or substantially-simultaneous digital retransmission by the terrestrial, over-the-air broadcast station of its over-the-air broadcast transmissions.

(d) RULE OF CONSTRUCTION.—Subsection (c)(2) shall not be given effect in interpreting provisions of title 17, United States Code.

(e) USE IN SOUND RECORDING PROCEEDINGS.—The repeal of section 114(i) of title 17, United States Code, by subsection (b) shall not be taken into account in any proceeding to set or adjust the rates and fees payable for the use of sound recordings under section 112(e) or section 114(f) of such title that is pending on, or commenced on or after, the date of the enactment of this Act.

(f) DECISIONS AND PRECEDENTS NOT AFFECTED.—The repeal of section 114(i) of title 17, United States Code, by subsection (b) shall not have any effect upon the decisions, or the precedents established or relied upon, in any proceeding to set or adjust the rates and fees payable for the use of sound recordings under section 112(e) or section 114(f) of such title before the date of the enactment of this Act.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 114.—Section 114(f) of title 17, United States Code, as amended by subsection (a), is further amended in paragraph (4)(C), as so redesignated, by striking ''under paragraph (4)'' and inserting ''under paragraph (3)''.

(2) SECTION 801.—Section 801(b)(1) of title 17, United States Code, is amended by striking ''The rates applicable'' and all that follows though ''prevailing industry practices.''.

(3) SECTION 804.—Section 804(b)(3)(C) of title 17, United States Code, is amended—

(A) in clause (i), by striking ''and 114(f)(2)(C)'';

(B) in clause (iii)(II), by striking ''114(f)(4)(B)(ii)'' and inserting ''114(f)(3)(B)(ii)''; and

(C) in clause (iv), by striking ''or 114(f)(2)(C), as the case may be''.

**SEC. 104. RANDOM ASSIGNMENT OF RATE COURT PROCEEDINGS.**

Section 137 of title 28, United States Code, is amended—

(1) by striking ''The business'' and inserting ''(a) IN GENERAL.—The business''; and

(2) by adding at the end the following new subsection:

''(b) RANDOM ASSIGNMENT OF RATE COURT PROCEEDINGS.—

''(1) IN GENERAL.—

''(A) DETERMINATION OF LICENSE FEE.—Except as provided in subparagraph (B), in the case of any performing rights society subject to a consent decree, any application for the determination of a license fee for the public performance of music in accordance with the applicable consent decree shall be made in the district court with jurisdiction over that consent decree and randomly assigned to a judge of that district court according to that court's rules for the division of business among district judges currently in effect or as may be amended from time to time, provided that any such application shall not be assigned to—

''(i) a judge to whom continuing jurisdiction over any performing rights society for any performing rights society consent decree is assigned or has previously been assigned; or

''(ii) a judge to whom another proceeding concerning an application for the determination of a reasonable license fee is assigned at the time of the filing of the application.

''(B) EXCEPTION.—Subparagraph (A) does not apply to an application to determine reasonable license fees made by individual proprietors under section 513 of title 17.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall modify the rights of any party to a consent decree or to a proceeding to determine reasonable license fees, to make an application for the construction of any provision of the applicable consent decree. Such application shall be referred to the judge to whom continuing jurisdiction over the applicable consent decree is currently assigned. If any such application is made in connection with a rate proceeding, such rate proceeding shall be stayed until the final determination of the construction application. Disputes in connection with a rate proceeding about whether a licensee is similarly situated to another licensee shall not be subject to referral to the judge with continuing jurisdiction over the applicable consent decree.''.

## TITLE II—COMPENSATING LEGACY ARTISTS FOR THEIR SONGS, SERVICE, AND IMPORTANT CONTRIBUTIONS TO SOCIETY

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Compensating Legacy Artists for their Songs, Service, and Important Contributions to Society Act'' or the ''CLASSICS Act''.

**SEC. 202. UNAUTHORIZED DIGITAL PERFORMANCE OF PRE-1972 SOUND RECORDINGS.**

(a) PROTECTION FOR UNAUTHORIZED DIGITAL PERFORMANCES.—Title 17, United States Code, is amended by adding at the end the following new chapter:

**"CHAPTER 14—UNAUTHORIZED DIGITAL PERFORMANCE OF PRE-1972 SOUND RECORDINGS**

''Sec.
''1401. Unauthorized digital performance of pre-1972 sound recordings.

**"§ 1401. Unauthorized digital performance of pre-1972 sound recordings**

''(a) UNAUTHORIZED ACTS.—Anyone who, before February 15, 2067, and without the consent of the rights owner, performs publicly, by means of a digital audio transmission, a sound recording fixed on or after January 1, 1923, and before February 15, 1972, shall be subject to the remedies provided in sections 502 through 505 to the same extent as an infringer of copyright.

''(b) CERTAIN AUTHORIZED TRANSMISSIONS.—A digital audio transmission of a sound recording fixed on or after January 1, 1923, and before February 15, 1972, shall, for purposes of subsection (a), be considered to be authorized and made with the consent of the rights owner if—

''(1) the transmission is made by a transmitting entity that is publicly performing sound recordings fixed on or after February 15, 1972, by means of digital audio transmissions subject to section 114;

''(2) the transmission would satisfy the requirements for statutory licensing under section 114(d)(2), or would be exempt under section 114(d)(1), if the sound recording were fixed on or after February 15, 1972;

''(3) in the case of a transmission that would not be exempt under section 114(d)(1) as described in paragraph (2), the transmitting entity pays statutory royalties and provides notice of its use of the relevant sound recordings in the same manner as is required by regulations adopted by the Copyright Royalty Judges for sound recordings fixed on or after February 15, 1972; and

''(4) in the case of a transmission that would not be exempt under section 114(d)(1) as described in paragraph (2), the transmitting entity otherwise satisfies the requirements for statutory licensing under section 114(f)(4)(B).

''(c) TRANSMISSIONS BY DIRECT LICENSING OF STATUTORY SERVICES.—

''(1) IN GENERAL.—A transmission of a sound recording fixed on or after January 1, 1923, and before February 15, 1972, shall, for purposes of subsection (a), be considered to be authorized and made with the consent of the rights owner if such transmission is included in a license agreement voluntarily negotiated at any time between the rights owner and the entity performing the sound recording.

''(2) PAYMENT OF ROYALTIES TO NONPROFIT COLLECTIVE.—To the extent that such a license agreement entered into on or after the date of the enactment of this section extends to digital audio transmissions of a sound recording fixed on or after January 1, 1923, and before February 15, 1972, that meet the conditions of subsection (b), the licensee shall pay, to the collective designated to distribute receipts from the licensing of transmissions in accordance with section 114(f), 50 percent of the performance royalties for the transmissions due under the license, with such royalties fully credited as payments due under the license.

''(3) DISTRIBUTION OF ROYALTIES BY COLLECTIVE.—The collective described in paragraph (2) shall, in accordance with subparagraphs (B) through (D) of section 114(g)(2), and paragraphs (5) and (6) of section 114(g)), distribute the royalties received under paragraph (2) under the license described in paragraph (2). Such payments shall be the only payments to which featured and nonfeatured artists are entitled by virtue of the transmissions described in paragraph (2) under the license.

''(4) RULE OF CONSTRUCTION.—This section does not prohibit any other license from directing the licensee to pay other royalties due to featured and nonfeatured artists for such transmissions to the collective designated to distribute receipts from the licensing of transmissions in accordance with section 114(f).

''(d) RELATIONSHIP TO STATE LAW.—

''(1) IN GENERAL.—Nothing in this section shall be construed to annul or limit any rights or remedies under the common law or statutes of any State for sound recordings fixed before February 15, 1972, except, notwithstanding section 301(c), for the following:

''(A) This section preempts any claim of common law copyright or equivalent right under the laws of any State arising from any digital audio transmission that is made, on and after the date of the enactment of this section, of a sound recording fixed on or after January 1, 1923, and before February 15, 1972.

''(B) This section preempts any claim of common law copyright or equivalent right under the laws of any State arising from any reproduction that is made, on and after the date of the enactment of this section, of a sound recording fixed on or after January 1, 1923, and before February 15, 1972, and that would satisfy the requirements for statutory licensing under paragraphs (1) and (6) of section 112(e), if the sound recording were fixed on or after February 15, 1972.

''(C) This section preempts any claim of common law copyright or equivalent right under the laws of any State arising from any digital audio transmission or reproduction that is made, before the date of the enactment of this section, of a sound recording fixed on or after January 1, 1923, and before February 15, 1972, if—

''(i) the digital audio transmission would have satisfied the requirements for statutory licensing under section 114(d)(2) or been exempt under section 114(d)(1), or the reproduction would have satisfied the requirements of section 112(e)(1), as the case may be, if the sound recording were fixed on or after February 15, 1972; and

''(ii) except in the case of transmissions that would have been exempt under section 114(d)(1), the transmitting entity, before the end of the 270-day period beginning on the date of the enactment of this section, pays statutory royalties and provides notice of the use of the relevant sound recordings in the same manner as is required by regulations adopted by the Copyright Royalty Judges for sound recordings that are protected under this title for all the digital audio transmissions and reproductions satisfying the requirements for statutory licensing under section 114(d)(2) and section 112(e)(1) during the 3 years prior to the date of the enactment of this section.

''(2) RULE OF CONSTRUCTION FOR COMMON LAW COPYRIGHT.—For purposes of subparagraphs (A) through (C) of paragraph (1), a claim of common law copyright or equivalent right under the laws of any State includes a claim that characterizes conduct subject to such subparagraphs as an unlawful distribution, act of record piracy, or similar violation.

''(3) RULE OF CONSTRUCTION FOR PUBLIC PERFORMANCE RIGHTS.—Nothing in this section shall be construed to recognize or negate the existence of public performance rights in sound recordings under the laws of any State.

''(e) LIMITATIONS ON REMEDIES.—

''(1) FAIR USE; USES BY LIBRARIES, ARCHIVES, AND EDUCATIONAL INSTITUTIONS.—The limitations on the exclusive rights of a copyright owner described in sections 107, 108, and 110(1) and (2) shall apply to a claim under subsection (a) for the unauthorized performance of a sound recording fixed on or after January 1, 1923, and before February 15, 1972.

''(2) ACTIONS.—The limitations on actions described in section 507 shall apply to a claim under subsection (a) for the unauthorized performance of a sound recording fixed on or after January 1, 1923, and before February 15, 1972.

''(3) MATERIAL ONLINE.—Section 512 shall apply to a claim under subsection (a) for the unauthorized performance of a sound recording fixed on or after January 1, 1923, and before February 15, 1972.

''(4) PRINCIPLES OF EQUITY.—Principles of equity apply to remedies for a violation of this section to the same extent as such principles apply to remedies for infringement of copyright.

''(5) FILING REQUIREMENT FOR STATUTORY DAMAGES AND ATTORNEYS' FEES.—

''(A) FILING OF INFORMATION ON SOUND RECORDINGS.—

''(i) FILING REQUIREMENT.—Except in the case of a transmitting entity that has filed contact information for that transmitting entity under subparagraph (B), in any action under this section, an award of statutory damages or of attorneys' fees under section 504 or 505 may be made with respect to an unauthorized transmission of a sound recording under subsection (a) only if—

''(I) the rights owner has filed with the Copyright Office a schedule that specifies the title, artist, and rights owner of the sound recording and contains such other information, as practicable, as the Register of Copyrights prescribes by regulation; and

''(II) the transmission is made after the end of the 90-day period beginning on the date on which the information filed under subclause (I) is indexed into the public records of the Copyright Office.

''(ii) REGULATIONS.—The Register of Copyrights shall, before the end of the 180-day period beginning on the date of the enactment of this section, issue regulations establishing the form, content, and procedures for the filing of schedules under clause (i). Such regulations shall provide that persons may request that they receive timely notification of such filings, and shall set forth the manner in which such requests may be made.

''(B) FILING OF CONTACT INFORMATION FOR TRANSMITTING ENTITIES.—

''(i) FILING REQUIREMENT.—The Register of Copyrights shall, before the end of the 30-day period beginning on the date of the enactment of this section, issue regulations establishing the form, content, and procedures for the filing, by any entity that, as of the date of the enactment of this section, performs sound recordings fixed before February 15, 1972, by means of digital audio transmissions, of contact information for such entity.

''(ii) TIME LIMIT ON FILINGS.—The Register of Copyrights may accept filings under clause (i) only until the 180th day after the date of the enactment of this section.

''(iii) LIMITATION ON STATUTORY DAMAGES AND ATTORNEYS' FEES.—

''(I) LIMITATION.—An award of statutory damages or of attorneys' fees under section 504 or 505 may not be made, against an entity that has filed contact information for that entity under clause (i), with respect to an unauthorized transmission by that entity of a sound recording under subsection (a) if the transmission is made before the end of the

90-day period beginning on the date on which the entity receives a notice that—

''(aa) is sent by or on behalf of the rights owner of the sound recording;

''(bb) states that the entity is not legally authorized to transmit that sound recording under subsection (a); and

''(cc) identifies the sound recording in a schedule conforming to the requirements prescribed by the regulations issued under subparagraph (A)(ii).

''(II) UNDELIVERABLE NOTICES.—In any case in which a notice under subclause (I) is sent to an entity by mail or courier service and the notice is returned to the sender because the entity either is no longer located at the address provided in the contact information filed under clause (i) or has refused to accept delivery, or the notice is sent by electronic mail and is undeliverable, the 90-day period under subclause (I) shall begin on the date of the attempted delivery.

''(C) SECTION 412.—Section 412 shall not limit an award of statutory damages under section 504(c) or attorneys' fees under section 505 with respect to an unauthorized transmission of a sound recording under subsection (a).

''(6) APPLICABILITY OF OTHER PROVISIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), no provision of this title shall apply to or limit the remedies available under this section except as otherwise provided in this section.

''(B) APPLICABILITY OF DEFINITIONS.—Any term used in this section that is defined in section 101 shall have the meaning given that term in section 101.

''(f) APPLICATION OF SECTION 230 SAFE HARBOR.—For purposes of section 230 of the Communications Act of 1934 (47 U.S.C. 230), subsection (a) shall be considered to be a 'law pertaining to intellectual property' under subsection (e)(2) of such section.

''(g) RIGHTS OWNER DEFINED.—In this section, the term 'rights owner' means the person who has the exclusive right to reproduce a sound recording under the laws of any State.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding at the end the following new chapter:

''14. Unauthorized digital performance of pre-1972 sound recordings 1401''.

**SEC. 203. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

## TITLE III—ALLOCATION FOR MUSIC PRODUCERS

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''Allocation for Music Producers Act'' or the ''AMP Act''.

**SEC. 302. PAYMENT OF STATUTORY PERFORMANCE ROYALTIES.**

(a) LETTER OF DIRECTION.—Section 114(g) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(5) LETTER OF DIRECTION.—

''(A) IN GENERAL.—A nonprofit collective designated by the Copyright Royalty Judges to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall adopt and reasonably implement a policy that provides, in circumstances determined by the collective to be appropriate, for acceptance of instructions from an artist payee identified under subparagraph (A) or (D) of paragraph (2) to distribute, to a producer, mixer, or sound engineer who was part of the creative process that created a sound recording, a portion of the payments to which the artist payee would otherwise be entitled from the licensing of transmissions of the sound recording. In this section, such instructions shall be referred to as a 'letter of direction'.

''(B) ACCEPTANCE OF LETTER.—To the extent that the collective accepts a letter of direction under subparagraph (A), the person entitled to payment pursuant to the letter of direction shall, during the period in which the letter of direction is in effect and carried out by the collective, be treated for all purposes as the owner of the right to receive such payment, and the artist payee providing the letter of direction to the collective shall be treated as having no interest in such payment.

''(C) AUTHORITY OF COLLECTIVE.—This paragraph shall not be construed in such a manner so that the collective is not authorized to accept or act upon payment instructions in circumstances other than those to which this paragraph applies.''.

(b) ADDITIONAL PROVISIONS FOR RECORDINGS FIXED BEFORE NOVEMBER 1, 1995.—Section 114(g) of title 17, United States Code, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

''(6) SOUND RECORDINGS FIXED BEFORE NOVEMBER 1, 1995.—

''(A) PAYMENT ABSENT LETTER OF DIRECTION.—A nonprofit collective designated by the Copyright Royalty Judges to distribute receipts from the licensing of transmissions in accordance with subsection (f) (in this paragraph referred to as the 'collective') shall adopt and reasonably implement a policy that provides, in circumstances determined by the collective to be appropriate, for the deduction of 2 percent of all the receipts that are collected from the licensing of transmissions of a sound recording fixed before November 1, 1995, but which is withdrawn from the amount otherwise payable under paragraph (2)(D) to the recording artist or artists featured on the sound recording (or the persons conveying rights in the artists' performance in the sound recording), and the distribution of such amount to one or more persons described in subparagraph (B), after deduction of costs described in paragraph (3) or (4), as applicable, if each of the following requirements is met:

''(i) CERTIFICATION OF ATTEMPT TO OBTAIN A LETTER OF DIRECTION.—The person described in subparagraph (B) who is to receive the distribution has certified to the collective, under penalty of perjury, that—

''(I) for a period of at least 4 months, that person made reasonable efforts to contact the artist payee for such sound recording to request and obtain a letter of direction instructing the collective to pay to that person a portion of the royalties payable to the featured recording artist or artists; and

''(II) during the period beginning on the date that person began the reasonable efforts described in subclause (I) and ending on the date of that person's certification to the collective, the artist payee did not affirm or deny in writing the request for a letter of direction.

''(ii) COLLECTIVE ATTEMPT TO CONTACT ARTIST.—After receipt of the certification described in clause (i) and for a period of at least 4 months before the collective's first distribution to the person described in subparagraph (B), the collective attempted, in a reasonable manner as determined by the collective, to notify the artist payee of the certification made by the person described in subparagraph (B).

''(iii) NO OBJECTION RECEIVED.—The artist payee did not, as of the date that is 10 business days before the date on which the first distribution is made, submit to the collective in writing an objection to the distribution.

''(B) ELIGIBILITY FOR PAYMENT.—A person shall be eligible for payment under subparagraph (A) if the person—

''(i) is a producer, mixer, or sound engineer of the sound recording;

''(ii) has entered into a written contract with a record company involved in the creation or lawful exploitation of the sound recording, or with the recording artist or artists featured on the sound recording (or the persons conveying rights in the artists' performance in the sound recording), under which the person seeking payment is entitled to participate in royalty payments that are based on the exploitation of the sound recording and are payable from royalties otherwise payable to the recording artist or artists featured on the sound recording (or the persons conveying rights in the artists' performance in the sound recording);

''(iii) made a creative contribution to the creation of the sound recording; and

''(iv) submits a written certification to the collective stating, under penalty of perjury, that the person meets the requirements in clauses (i) through (iii) and includes a true copy of the contract described in clause (ii).

''(C) MULTIPLE CERTIFICATIONS.—Subject to subparagraph (D), in a case in which more than one person described in subparagraph (B) has met the requirements for a distribution under subparagraph (A) with respect to a sound recording as of the date that is 10 business days before the date on which a distribution is made, the collective shall divide the 2 percent distribution equally among all such persons.

''(D) OBJECTION TO PAYMENT.—Not later than 10 business days after the date on which the collective receives from the artist payee a written objection to a distribution made pursuant to subparagraph (A), the collective shall cease making any further payment relating to such distribution. In any case in which the collective has made one or more distributions pursuant to subparagraph (A) to a person described in subparagraph (B) before the date that is 10 business days after the date on which the collective receives from the artist payee an objection to such distribution, the objection shall not affect that person's entitlement to any distribution made before the collective ceases such distribution under this subparagraph.

''(E) OWNERSHIP OF THE RIGHT TO RECEIVE PAYMENTS.—To the extent that the collective determines that a distribution will be made under subparagraph (A) to a person described in subparagraph (B), such person shall, during the period covered by such distribution, be treated for all purposes as the owner of the right to receive such payments, and the artist payee to whom such payments would otherwise be payable shall be treated as having no interest in such payments.

''(F) ARTIST PAYEE DEFINED.—In this paragraph, the term 'artist payee' means a person, other than a person described in subparagraph (B), who owns the right to receive all or part of the receipts payable under paragraph (2)(D) with respect to a sound recording. In a case in which there are multiple artist payees with respect to a sound recording, an objection by one such payee shall apply only to that payee's share of the receipts payable under paragraph (2)(D), and does not preclude payment under subparagraph (A) from the share of an artist payee that does not so object.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 114(g) of title 17, United States Code, as amended by subsections (a) and (b), is further amended—

(1) in paragraph (2), by striking ''An agent designated'' and inserting ''Except as provided for in paragraph (6), a nonprofit collective designated by the Copyright Royalty Judges'';

(2) in paragraph (3)—

(A) by striking ''nonprofit agent designated'' and inserting ''nonprofit collective designated by the Copyright Royalty Judges'';

(B) by striking ''another designated agent'' and inserting ''another designated nonprofit collective''; and

(C) by striking ''agent'' and inserting ''collective'' each subsequent place it appears;

(3) in paragraph (4)—

(A) by striking ''designated agent'' and inserting ''nonprofit collective''; and

(B) by striking ''agent'' and inserting ''collective'' each subsequent place it appears; and

(4) by adding at the end the following new paragraph:

''(7) PREEMPTION OF STATE PROPERTY LAWS.—The holding and distribution of receipts under section 112 and this section by a nonprofit collective designated by the Copyright Royalty Judges in accordance with this subsection and regulations adopted by the Copyright Royalty Judges shall supersede and preempt any State law (including common law) concerning escheatment or abandoned property, or any analogous provision, that might otherwise apply.''.

**SEC. 303. EFFECTIVE DATE.**

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) DELAYED EFFECTIVE DATE.—The effective date for paragraphs (5)(B) and (6)(E) of section 114(g) of title 17, United States Code, as added by section 302, shall be January 1, 2020.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 5447, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the House brings early 20th century music laws for the analog era into the 21st century digital era. These changes are a culmination of years of effort by interested parties as well as by many members of the Judiciary Committee.

The problems and failures in our Nation's music laws have imposed real financial costs upon artists and creators. Music is no longer written on piano rolls and our laws shouldn't be based on that technology any longer either.

Several years ago, the Judiciary Committee began a comprehensive review of our Nation's copyright laws. We held dozens of hearings, heard from over 100 witnesses, and traveled to multiple cities across the country to hear directly from stakeholders who use these laws. This review provided the foundation upon which several bills to reform our copyright laws were constructed.

During the course of this review, we learned that our music licensing laws were no longer working as intended for songwriters, artists, and creators, or for the companies that deliver the music in innovative ways for consumers.

Specifically, we have heard about several key problems, including a dysfunctional mechanical licensing system that seems to generate more paperwork and attorneys' fees than royalties; a need to provide protection for pre-1972 performances; a lack of recognition in the law for the creative input of producers, sound engineers, and mixers; and a lack of a unified rate standard for music royalties.

The Judiciary Committee regularly hears from a variety of groups interested in copyright law, and it will not surprise anyone to know that, typically, not everyone agrees regarding what changes to title 17 are necessary. One person's problem may be another's benefit, and some have preferred a broken system over an unknown change.

However, in a reflection of how bad our music statutes are, the opposite is true with respect to the bill before us today. Every party that has spoken about music recognizes the problems caused by our current licensing framework and wants real solutions. The existing music provisions of title 17 are simply that bad.

I tasked the industry to come together with a unified reform bill and, to their credit, they delivered, albeit with an occasional bump along the way. Today, the major players in the music industry are unified in supporting comprehensive music licensing reform to bring the state of our Nation's copyright laws into the digital age that the industry itself has already transitioned to.

While no bill is perfect, by all accounts, this is a bill with overwhelming consensus behind it. Groups that represent songwriters, musical works copyright owners, digital music providers, individual artists, sound recording copyright owners, artist guilds, and performing rights organizations all support the bill.

The reasons for such widespread support are clear:

The Music Modernization Act boosts payments for copyright owners and artists by shifting the reasonable costs of a new mechanical licensing collective onto digital music services that, themselves, benefit from reduced litigation costs as a result of other provisions in the bill.

Songwriters gain a seat at the table in seeing how their royalties are collected and then allocated.

Pre-1972 artists who currently go unpaid will finally see royalties for their creations, as will sound engineers, mixers, and producers. The public benefits, too, by having immediate access to all music on their favorite services. Furthermore, libraries and archives gain educational and fair use access to pre-1972 works currently governed under State law.

This bill is the work product of many stakeholders and many Members. I want to highlight the work of several of my colleagues, including the ranking member, who were leaders in working on the underlying components of this bill.

I want to especially thank Mr. COLLINS and Mr. JEFFRIES for their leadership on section 115 reform. I would like to thank Mr. ISSA and Mr. NADLER for their leadership on behalf of pre-1972 performers. I would also like to thank Mr. CROWLEY and Mr. ROONEY for their efforts on behalf of producers, mixers, and sound engineers.

And last but not least, I would like to thank Ranking Member NADLER for his leadership on these issues and for his willingness to partner with me in putting these pieces together into a comprehensive and consensus music licensing reform package.

Sometimes big pieces of legislation can come together only through the efforts of a large number of people who invest their time in making change happen, as so many Members and so many stakeholders in the music and digital delivery communities have done. It also has to happen at the right time.

I would note that only 1 week ago, GRAMMYs on the Hill brought hundreds of artists to D.C. to explain to their own Members of Congress how important an updated licensing system is to them. This bill delivers that for them just 1 day before World Intellectual Property Day, when we recognize the value of intellectual property and those who create it. So I am on safe ground when I say that this bill fits right into the perfect sweet spot on both timing and substance.

Mr. Speaker, I urge my colleagues to support this important piece of legislation, and I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Music Modernization Act. I am proud to partner with Chairman GOODLATTE on this comprehensive bill intended to resolve some longstanding inequities and inefficiencies in the music marketplace. We have achieved consensus on this bill, which passed out of the Judiciary Committee by a remarkable vote of 32–0.

The package includes the original Music Modernization Act, H.R. 4706, introduced by Mr. COLLINS and Mr. JEFFRIES, which significantly reforms the process for licensing mechanical reproduction royalties under section 115 of the Copyright Act. It also includes a number of provisions to ensure that songwriters and other music creators receive fair market value for their work.

The package includes the CLASSICS Act, H.R. 3301, introduced by Chairman

ISSA and me, to resolve the dispute over payment to legacy artists for pre-1972 works played on digital radio platforms.

For too long, many of our Nation's great cultural icons have been unfairly denied compensation. That is why this measure is supported by the NAACP and more than 300 major artists.

The bill includes the AMP Act, H.R. 831, introduced by Mr. CROWLEY and Mr. ROONEY, to simplify the payment of royalties to producers, mixers, and engineers, recognizing in Federal copyright their important contributions to the creation of music.

Several of these measures were included in the Fair Play Fair Pay Act, H.R. 1836, a bipartisan bill I introduced with Representative MARSHA BLACKBURN, Chairman ISSA, and Mr. DEUTCH, to create a uniform system for sound recordings. They, along with Mr. COLLINS and Mr. JEFFRIES, deserve a tremendous amount of credit for getting us to this point.

We are at a unique moment in time where virtually all the industry stakeholders have come together in support of a common music policy agenda. The bill is supported by a broad coalition that includes songwriters and artists, publishers and labels, and internet and digital media companies such as Pandora, Spotify, Google, and Amazon.

I want to thank the members of my staff who worked for years to resolve some very complex and sensitive issues to move this legislation forward: Lisette Morton, Jason Everett, and David Greengrass. This is an historic opportunity to accomplish a great deal that hasn't been done in decades.

Mr. Speaker, I urge all of my colleagues to support the Music Modernization Act, and I reserve the balance of my time.

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Mr. GOODLATTE. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. COLLINS), a member of the Judiciary Committee and a key legislator in making sure that this legislation moves forward. He has worked very, very hard on it.

Mr. COLLINS of Georgia. Mr. Speaker, I rise today in support of H.R. 5447, the Music Modernization Act.

It has already been said that this bill combines critical pieces of legislation to update our laws, including legislation that I authored, the Music Modernization Act, but it also represents the CLASSICS Act, the AMP Act, and rate standardization, things that have been negotiated for a long period of time.

As we have looked at this and we have talked about it, this is a bill today that comes to the floor with overwhelming support, not just on this floor, not just in the committee where it passed 32–0. It comes to this floor with an industry that many times couldn't even decide that they wanted to talk to each other about things in their industry, but who came together with overwhelming support and said this is where we need to be.

I can remember when the chairman first laid out a vision that would deal with copyright. Most thought it was a dream that would never happen. In fact, some thought we would never even get text that people could agree on. They were wrong, because we did.

I want to thank the leadership of Chairman GOODLATTE and Ranking Member NADLER for their tireless commitment to getting something done on copyright, which ultimately got us here. I thank their staffs: Joe Keeley, Lisette Morton, and Jason Everett.

Also in this, Mr. Speaker, there is someone whom I also want to thank who, not only in this bill but in many others, epitomizes to me what is good about this institution. The Music Modernization Act has put my friend HAKEEM JEFFRIES and I in, again, a leading role and is living proof that a rural Member from northeast Georgia and a Democrat from Brooklyn can find common ground. With HAKEEM and I, we know that we can come together with good product when we have the right intentions in mind.

Senators HATCH and ALEXANDER have been champions in the Senate, where they have introduced companion legislation. Congressmen ISSA, ROONEY, and CROWLEY have all been key players, and many from different States have all taken part in this. As I have said earlier, they come from many places: David Israelite with NMPA; Bart Herbison from Nashville Songwriters Association International; Dina LaPolt, Michelle Lewis, and Kay Hanley from SONA; Beth Mathews from ASCAP; Mike O'Neill from BMI; Chris Harrison from Digital Media; Michael Beckerman from Internet Association; Mitch Glazier from Recording Industry Association of America; Todd Dupler and Darryl Friedman from Recording Academy; and others, such as Rick Carnes, Mike Huppe, Curtis LeGeyt, and many others; also my friends, one sitting behind me, MARSHA BLACKBURN as well, who has been at the forefront of this.

Mr. Speaker, before I finish up in just a little bit, I do need to thank two more, and that is my staff, who have lived with me, who have worked with me for a long time: Brendan Belair, my chief of staff, who has kept us on target; and Sally Rose Larson. You couldn't meet a better steel magnolia, who has shown herself to be such an invaluable asset during this process.

Mr. Speaker, I want to end not with the bill. We will talk about it. But what brought me to this point and what brought me to this area and why this is so important today as we move forward for generations of others: I want to take you back in time almost 40-plus years to a state trooper's kid in north Georgia whose friends were books, whose friends were music, a radio, and songs that came true. It was in there that those songs that would come out, the music and lyrics, would take me to places far away from northeast Georgia and let me travel the world long before I could even drive a car.

When we talk about copyright and we talk about the creator's spirit, it is about the creator's spirit, what comes out of their heart, that comes out of their mind, that comes through their hands and out of their mouths and into the lives that touch everyone of whom we become a part.

This is about something bigger than ourselves. And my friend HAKEEM and all the rest who have worked on this show that this place, when put properly forward, can touch the very soul of America. We have new ways of hearing that music nowadays, long past a radio. And the digital companies needed a place where they could give music to others, but songwriters needed to be fairly compensated.

When I think of my friends who write music—HAKEEM, we have talked to so many—it is about hopes, it is about dreams, it is about everything in this place. Any one of us in here would think of a song that could make us think of the first time we fell in love, the first time we had our heart broken, the first time we laid someone to rest, the first time we got that joyful noise of a new job or a new hope.

Today, Mr. Speaker, we come carrying the dreams of those who have not even yet understood a song, of those who have not yet understood a melody. We carry those dreams into the future.

And I want to thank everybody who has been a part of this, because today the song lives on, because it all begins with that emotion, with that heart, and with that melody.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. JEFFRIES), the Democratic lead sponsor of the original Music Modernization Act.

Mr. JEFFRIES. Mr. Speaker, I thank my good friend, the distinguished ranking member, for yielding, for his leadership, and, of course, to the chairman of the committee and to so many other Members: Representative ISSA, Representative ROONEY, and Representative CROWLEY and many, many others who have worked hard on this particular piece of legislation.

Of course, above all else, I want to thank my good friend and colleague, Congressman DOUG COLLINS, who has been a phenomenal leader in bringing stakeholders together from across the music ecosystem, bringing folks together from the digital industry, bringing the National Association of Broadcasters together to help us reach this moment where we have a consensus product that can ensure that the people of America and the Nation can continue to enjoy the music we have come to know and love.

Article 1, section 8, clause 8 of the United States Constitution gives Congress the power to promote and create a robust intellectual property system in order to, in the words of the Founding Fathers, promote the progress of

science and useful arts. The Founding Fathers of this great Nation understood that we should incentivize creative brilliance and incentivize innovation and, in that context, that the creator should be able to benefit from the fruits of their labor and, in doing so, will continue to share their creative brilliance with the world.

In the context of music, we know that the manner in which we have consumed music has changed over time: from vinyl to 8-track, from 8-track to cassette, from cassette to CD, from CD to downloads, from downloading to streaming. The manner in which we consume music has changed, but the underlying brilliance and beauty and creativity of that music remains the same.

Consistent with what the Founding Fathers have suggested, we need a modern-day music licensing system, and that is what the MMA will accomplish. I am thankful that it has brought together not just stakeholders and industry, but it has brought together a JERRY NADLER and a Chairman GOODLATTE, a DARRELL ISSA and a JOE CROWLEY. It has brought together a conservative Republican from Georgia and a progressive Democrat from the people's republic of Brooklyn.

Music is a unifying force. It has the power to bring us together. We should have the power to modernize our system on behalf of these brilliant creators.

Mr. GOODLATTE. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. RUTHERFORD), a member of the Judiciary Committee.

Mr. RUTHERFORD. Mr. Speaker, music has been an integral part of the fabric of our culture for hundreds of years because it can capture a moment in time and space like nothing else. You remember where you were the first time you heard that special song, and time after time, it takes you back to a moment and a place of significance in your life.

For me, Mr. Speaker, one of the most meaningful songs in my life is ''More Today Than Yesterday'' by The Spiral Starecase. It just so happens that that song signifies the bond between my wife, Pat, and I that we have shared now for over 45 years. And I can tell you, it is a priceless reminder of our lives and so many special moments together. And while we may not be able to put a price on a song's ability to transport us to a memory, we can all agree that the creators of the music we hold so dear should be fairly compensated for their craft.

That is why I am so pleased to support the Music Modernization Act, which offers a long-overdue update to our copyright laws to account for the changing ways we consume music. Songwriters, musicians, producers, engineers, and artists should all have the opportunity to receive their fair due. And I thank Chairman GOODLATTE, Ranking Member NADLER, and Representatives COLLINS and JEFFRIES for all their hard work to ensure that our copyright laws are all singing from the same sheet of music.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. DEUTCH), one of the Democratic lead sponsors of this bill as well as of the Fair Play Fair Pay Act and the CLASSICS Act.

Mr. DEUTCH. Mr. Speaker, I thank the ranking member and the chairman for their leadership. I thank Congressman JEFFRIES and Congressman COLLINS for helping to shepherd the bill to this point.

It is a pleasure to vote on these much-needed consensus reforms. Consensus on copyright has been difficult. It has been difficult to forge between the various interests represented in the content and the tech communities but, fortunately, we now have consensus. Much of that has been borne out of true necessity, the technological demands of licensing tens of millions of songs and streaming services, and much of it has been borne out of basic fairness. Recording artists, songwriters, producers, and engineers deserve to be paid for their creativity and genius; and digital services deserve more certainty in their operations. The current system is broken.

As someone who cares deeply about music and the incredible people who are a part of making it and who understands the importance of the intersection of technology and creative works that benefit all American music fans, I really feel privileged to be part of this process of modernizing our copyright laws. The Music Modernization Act does not include everything that I have supported to bring fairness and 21st-century sophistication to the copyright laws, but it takes big steps forward toward those goals.

I am hopeful that, with this bill, it will help to ensure that we all continue to benefit from the amazing artists of yesterday and today and the innovative technologies that bring them into our lives.

Mr. Speaker, I urge my colleagues to support the Music Modernization Act.

Mr. GOODLATTE. Mr. Speaker, at this time I yield 2½ minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN), who is from music-loving Tennessee and a great champion for the music industry and people who love music around our country.

Mrs. BLACKBURN. Mr. Speaker, what an honor it is to stand here today and to celebrate the bipartisan work that has been done on this legislation and to bring it to this point.

Indeed, this is something on which we can all agree: that the creative community, these wonderful creators, have that constitutional protection to what they create, the right to be compensated for their creation. And I am so appreciative that that has already been mentioned in this debate.

Chairman GOODLATTE said I come from music-loving Tennessee, and indeed I do. And we are so pleased that we are known as Music City and that, whether it is classical music or country or gospel, that you are going to hear music from every hill and every valley. And we treasure that creative community and protecting that product that they do create.

Now, one of the things that has happened through time: With the change of delivery systems, it has become more difficult for these artists and these creators and the support network around them, the engineers, those who work on producing this product, to be appropriately compensated. This bill, as DOUG COLLINS mentioned, has been in the works for years; and the CLASSICS Act, to take care of those who are now no longer able to tour and to make certain that they and their heirs are able to be compensated for that music that they have created.

One thing to bear in mind: Songwriters and musicians are truly small-business people. They work for themselves. Their stock and trade is their idea. And they have the right to commercialize that idea and to be compensated. The Music Modernization Act and the different bills that it brings together to update this system, to protect those copyrights, and to make certain that the creators are compensated, has been a collaborative effort.

□ 1430

Chairman GOODLATTE and Congressman COLLINS have been to Nashville several times to meet with stakeholders and to hear their stories firsthand. We are grateful for that, we are grateful for the bipartisanship, and we are very grateful for the passage of this legislation.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. JOHNSON), the ranking member of the Committee on the Judiciary Subcommittee on Courts, Intellectual Property, and the Internet.

Mr. JOHNSON of Georgia. Mr. Speaker, I rise in support of the Music Modernization Act, and I am also proud to be a cosponsor. This comprehensive music bill will help create an efficient and fair music licensing system.

Currently, streaming services have to obtain licenses on a song-by-song basis. The Music Modernization Act would reform section 115 of the Copyright Act by establishing a collective to offer blanket licenses to streaming services for mechanical rights.

Under current law, only sound recordings made after 1972 receive payments from digital radio services under Federal law. This bill would benefit legacy artists and music creators who recorded music before 1972 by establishing royalty payments whenever their music is played on digital radio.

That is why this section of the bill is supported by Dionne Warwick, Duke Fakir of the Four Tops, Tina Turner, and the estates of Miles Davis and Otis Redding, among many others. The bill provides producers a right to collect

digital royalties and provides a process for studio professionals to receive royalties for their contributions to the creation of music. This bill would, for the first time, add producers and engineers who play an important role in the creation of sound recordings to the U.S. copyright law.

Music organizations representing U.S. music publishers, record labels, songwriters, composers, artists, and performance rights organizations support this bill. The reforms made by this bill are critical because the royalty system has not kept pace with the digital age. These changes will benefit consumers, creators, and the entire music marketplace.

I urge my colleagues to vote for this bill. I commend the efforts of DOUG COLLINS, HAKEEM JEFFRIES, and Chairman GOODLATTE, as well as Ranking Member NADLER for shepherding this legislation to this point.

Mr. GOODLATTE. Mr. Speaker, may I ask how much time I have left?

The SPEAKER pro tempore. The gentleman from Virginia has 5½ minutes remaining. The gentleman from New York has 12 minutes remaining.

Mr. GOODLATTE. Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. CICILLINE).

Mr. CICILLINE. Mr. Speaker, I rise today in support of the Music Modernization Act. I am proud to be a cosponsor of this bill.

I am proud to come from the great State of Rhode Island, the State that sent the great Senator Claiborne Pell to Washington. It was Senator Pell who authored the bill that established the National Endowment for the Arts and the National Endowment for the Humanities.

Senator Pell knew that the greatness of our Nation is not only defined by the strength of our military or the value of our GDP, but by our ability to promote and protect our culture and history through the arts and humanities.

In keeping with that tradition today, Congress moves to make sure that artists and their creations are protected under the Music Modernization Act. Music has always been a part of our culture and history. The power of music has brought people together in moments of celebration and soothed people in difficult times. Music transcends political, ethnic, and religious boundaries.

The Music Modernization Act is the culmination of years of debate and negotiation with various stakeholders. We held dozens of hearings and heard from artists, producers, and industry experts to develop a solution that reflects the changing landscape of how people consume music and ensures creators are fairly compensated.

From the start, we were committed to making sure this bill was bipartisan and a compromise that everyone could support. Within the music community, this legislation brought together an unprecedented coalition of music publishers, record labels, songwriters, composers, artists, and performance rights organizations.

The result was a bill that is meant for the digital age and recognizes the contributions that many people are involved in during the creation of a song. For the first time, this bill will set up a collective that can give out blanket mechanical licenses to streaming services and ensure proper payments to songwriters and publishers.

Importantly, this bill also ensures compensation for pre-1972 artists who have been left out of the Federal copyright system for far too long. It also provides a clearer process for engineers, mixers, and producers to collect royalties.

It has been a privilege to be a part of this historic moment. I urge all of my colleagues to support the Music Modernization Act, and I want to thank Mr. JEFFRIES, Mr. COLLINS, Mr. DEUTCH, Chairman GOODLATTE, and Ranking Member NADLER for their extraordinary leadership in accomplishing what is not only significant for our committee but significant for our ability to hear and appreciate and continue to nurture our souls with the beauty of music.

Mr. GOODLATTE. Mr. Speaker, I yield 2½ minutes to the gentleman from Tennessee (Mr. ROE), another Member from music-loving Tennessee and the chairman of the Veterans' Affairs Committee.

Mr. ROE of Tennessee. Mr. Speaker, I rise today in support of H.R. 5447, the Music Modernization Act, a bipartisan bill that will finally update our Nation's copyright laws and correct a terrible injustice that threatens the future of quality music.

Music has changed, perhaps, more than any other industry over the past 50 years. When the Copyright Act of 1976 was signed into law, most people got their music on a vinyl record. I still like vinyl, I might add. Today, you can instantly stream music to your phone from any number of services at the touch of a button. That Copyright Act might have been what was needed at the time, but it never could have anticipated the radical shift in how music was consumed over the past, even in the last 10 years.

For far too long, hardworking songwriters have been penalized under the old system and have been paid only pennies on the dollar for their creative works, even though their songs may have been streamed millions of times every second around the world.

Garth Brooks' iconic song, ''The Dance,'' has been streamed tens of millions of times; and the songwriter, Tony Arata, who wrote that beautiful song, was paid a few hundred dollars. That is ridiculous, and it is wrong.

Under the current system, the creative geniuses that write this music won't be able to make a living doing what they love doing, which is writing great songs. The Music Modernization Act seeks to fix this discrepancy and properly recognize the hard work these songwriters put into their craft before they simply stop writing music because they can no longer earn enough money to survive.

As a musician myself, I understand what songwriters and performers go through when getting a song out for the world to hear, and it is time we recognize the contributions the songwriters make to the creative process. This bill was supported by the entire music industry: songwriters, record labels, music publishers, streaming services, just to name a few. It isn't often that we have a truly bipartisan and widely supported piece of legislation to consider, but with this bill, we have the opportunity and can change the lives of some of our Nation's most talented people for the better.

I strongly support H.R. 5447 and encourage all of my colleagues to listen to their favorite song one more time before coming to the floor and think of the person who wrote it, think about what it means, then support this bill and truly make a difference in someone's life.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE), a senior member of the Judiciary Committee.

Ms. JACKSON LEE. Mr. Speaker, I thank the gentleman very much for yielding, and I make the very point that there are three Members on this floor today from the Judiciary Committee who have an enormous amount of seniority, who have seen the long journey that our talented genius-based musical icons in our Nation have traveled to come to this point, and so I say congratulations.

In the markup, I indicated that there was a harmonious sound coming from the Judiciary Committee and that it was evident that we could work together in a bipartisan manner.

I thank the chairman, Mr. GOODLATTE, and the ranking member, Mr. NADLER, who have been intimately involved; and I am reminded of all of those who have come in and out of my office through the years as I served on the Courts, Intellectual Property, and the Internet Committee some years back and that they were still traveling even in this year, 2018.

So I applaud Mr. COLLINS and Mr. JEFFRIES for providing that musical tone. This is a very important bill. It is an important bill because it was an inconsistent patchwork that governed the industry that was in dire need of reframing, and the MMA 2018 addresses that patchwork. And specifically, under title II, it finally gives a just compensation to those artists who recorded works prior to 1972.

First and foremost, the MMA is a proposition that is supported by both the majority of songwriters and publishers and the digital service providers.

Secondly, it modernizes the process and brings music licensing into the 21st century—long overdue.

Third, it puts unclaimed royalties in the hands of the content community, rather than sitting with digital services. It streamlines the streamline.

Fourth, it finally creates a comprehensive database, and confidence grows in the market.

And for all of those individuals who provided us the joy that was earlier mentioned, it creates a formalized body run by publishers that administer the law, the mechanical licensing and compositions streamed on services like Spotify and Apple Music, and others; it changes the procedure by which millions of songs are made available; and it funds the creation of a comprehensive database, but, more importantly, it helps those who prerecord it.

My tribute to Aretha Franklin, Dionne Warwick, the late Jackie Wilson, Duke Fakir, The Shirelles, French Family in Houston, Bun B, Trae tha Truth, and the late Crickets, the Ebony singers in Houston, the Houston Grand Opera, Mrs. Barbara Tucker, End Jazz, Jason Moran, Kirk Whalum, Howard Harris, Imani children's band, Kashmere jazz band; and, of course, gospel, Kirk Clark, Kathy Taylor, Michael McCain, and Georgia Adams. Houston is a hub, Mr. Speaker, and we are celebrating because of this bill. I congratulate everyone.

Mr. Speaker, I rise in support of the Music Modernization Act of 2018 (MMA) of which I am an original cosponsor.

This bill has arrived at its current state through the diligent work of various stakeholders involved, including the music industry, congressional staff, and Members of Congress.

Hours of debate, negotiation, and deliberation have yielded a product of cooperation and compromise.

I commend the industry and the parties involved in drafting this bipartisan solution—it is rare that this committee reaches such agreements when considering major legislation.

Houston, being a music hub with its Grammy Award winning orchestra and Grammy nominated rappers including my dear friend Bun B from Underground Kingz, will certainly benefit from this legislation becoming law.

The exemplary efforts exhibited by the music industry in this instance, with the goal of solving problems and addressing a wide variety of stakeholder concerns, are a model that this committee and this Congress should use as inspiration to best serve the American people.

The need for this legislation is clear; much of the current licensing system was established in an analog era, with non-digital physical recordings done song-by-song, using compulsory licenses first established in 1909.

In addition, artists who recorded works prior to 1972 do not receive any digital performance royalties under federal law, and current statute does not ensure that non-recording artists such as producers, sound engineers, and mixers receive revenue from webcasts of their work.

The inconsistent patchwork that governs the industry is in dire need of reframing and the MMA 2018 addresses that patchwork and specifically under Title II, finally gives just compensation to those artists who recorded works prior to 1972.

With the MMA, Congress is fulfilling its duty to provide order and guidance to the faulty program currently in place.

The United States has the most innovative and influential music culture in the world, but its legal framework for music licensing dates back to the age of the Victrola.

There is a widespread perception from across the industry that this complex framework is under strain and needs updating.

The last general revision of the Copyright Act took place in 1976 following a lengthy and comprehensive review process carried out by Congress, the Copyright Office, and interested parties.

Congress significantly amended the Act in 1995, with the Digital Performance Right in Sound Recordings Act (''DPRSRA''), and 1998, with the Digital Millennium Copyright Act (''DMCA''), to address emerging issues of the digital age.

While the current Copyright Act reflects many sound and enduring principles, and has enabled the internet to flourish, it could not have foreseen all of today's technologies and the myriad ways consumers and others engage with music in the digital environment.

First and foremost, the MMA is a proposition that is supported by both a majority of songwriters and publishers and the (Digital Service Providers)—two groups who rarely agree.

Secondly, it ''modernizes'' the process and brings music licensing into the 21st century.

Instead of bulk Notices of Intention—the environmentally unfriendly process of sending actual physical letters of intent to each publisher for each share of each song—the licensing will be done electronically.

Third, it puts unclaimed royalties in the hands of the content community, rather than sitting with the Digital Service Providers.

Fourth, it finally creates a comprehensive database.

While various companies and services have a version of a database, U.S. publishers have not agreed on one that is both comprehensive and accurate.

As part of the MMA, the digital service providers will pay for the creation and maintenance of a database that will finally put all mechanical licensing information in one place that is accessible to all.

Finally, it provides streaming services with confidence that, if they follow the process, they can accurately and comprehensively license all the musical works on their service without fear of billion dollar lawsuits against them.

And confidence grows markets and boosts economy.

A number of interested music industry groups have come together to create a consensus bill that makes several major changes including: Title I—Music Modernization Act.

The Music Modernization act creates a formalized body, run by publishers, that administers the ''mechanical licensing'' of compositions streamed on services like Spotify and Apple Music (these companies are referred as Digital Service Providers or DSPs).

The bill reflects how modern digital music services operate by creating a blanket licensing system to quickly license and pay for musical work copyrights.

It changes the procedure by which millions of songs are made available for streaming on these services and limits the liability a service can incur if it adheres to the new process.

Discusses music litigation that generates legal settlements in favor of simply ensuring that artists and copyright owners are paid in the first place without such litigation.

The MMA funds the creation of a comprehensive database with buy in from all the major publishers and digital service providers.

Ends the flawed U.S. Copyright Office bulk notice of intent system that allows royalties to go unpaid.

The bill also creates a new evidentiary standard by which the performance rights organizations American Society of Composers, Authors, and Publishers (ASCAP) and Broadcast Music Incorporated (BMI) can argue better rates for the performance of musical works on DSPs.

It implements uniform rate setting standards to be used by the Copyright Royalty Board for all music services.

The bill shifts the costs of the new licensing collective created by the bill to those who benefit from the collective—the licensees.

The MMA updates how certain rate court cases are assigned in the Southern District of New York.

Title II—Compensating Legacy Artists for their Songs, Service, and Important Contributions to Society (CLASSICS) Act provides a public performance right for pre–1972 recordings.

Title III—The Allocation for Music Producers (AMP) Act ensures that record producers, sound engineers, and other creative professionals receive compensation for their work

I urge my colleagues to join me in support of the MMA.

Mr. GOODLATTE. Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. BASS).

Ms. BASS. Mr. Speaker, I rise today in support of the Music Modernization Act. I also come from one of those districts that is a hub.

After meeting with songwriters and producers in my district and listening to their testimony before the House Judiciary Committee, it is clear we risk losing the next generation of songwriters if we do not address the rate standards for digital streaming.

Recently, I met with world-renown songwriter, Paul Williams, and I have had open discussions with hundreds of songwriters from around the country. Songwriters from my district have voiced that it is nearly impossible to earn a fair income via digital streaming. They are usually not the famous performers and cannot go on tour to earn a living.

Over 50 percent of their income is derived from licensing performance rights to their music. One of my constituents, Michelle Lewis, shared that she made just $3.78 for 1.3 million streams of her work on one streaming service. As the Grammy Award winning artist and songwriter Ne-Yo stated: ''Even if you write a hit song that's streamed millions of times, you're still not going to earn enough to pay the rent from streaming. And that's where the entire industry is moving,'' which

is why I support the Songwriters Equity Act, AMP, the CLASSICS Act, and MMA.

MMA also closes a loophole, which has negatively impacted early music icons of Motown, jazz, blues, and rock and roll. According to Grammy Award winning artist Dionne Warwick: ''How could it be that 1979's 'I'll Never Love This Way Again' receive compensation, but 1969's 'I'll Never Fall in Love Again' . . . does not?''

Recently, legacy songwriter and performer Darlene Love visited my office to express her support for closing the legacy loophole. Born in Los Angeles, she was inducted into the Rock and Roll Hall of Fame in 2011. She sang backup for Elvis, Aretha Franklin, and Frank Sinatra. After decades of listening to her hard work being streamed without being compensated, with the passage of MMA, she and other songwriters will finally have access to the fair compensation they deserve.

If we are serious about supporting a next generation of songwriters, then we must continue to address antiquated, though well-intentioned, laws.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), a member of the Judiciary Committee and chairman of the Small Business Committee.

Mr. CHABOT. Mr. Speaker, I rise today to express my continued support for this legislation. A lot of hard work has gone into this legislation over the years, and the result is an unprecedented level of consensus from a broad coalition of stakeholders in the music industry who don't always agree.

□ 1445

This legislation, I think, will prove to be a great benefit to music consumers, creators, and producers alike.

The way we listen to and experience music is much different today than it was when the Copyright Act was enacted back in 1976. As a result, our copyright laws have become outdated and are, in many ways, insufficient for the music industry in the 21st century. This legislation provides much-needed updates to bring music licensing into the digital age, particularly improving market efficiencies and transparency to reflect the modern music marketplace.

So again, I thank the chairman, ranking member, and various sponsors of the underlying pieces of legislation included in this bill.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. TED LIEU).

Mr. TED LIEU of California. Mr. Speaker, as has been said, music is the lifeblood of culture that can transform world views, transport listeners, and inspire social movements.

Ensuring that the law keeps up with music and its changing forms is crucial. With the support of music publishers, artists, songwriters, streaming services, and other stakeholders, the Music Modernization Act will propel the music industry into the 21st century and beyond. I am proud to be an original cosponsor of the act.

I want to thank Chairman GOODLATTE, Ranking Member NADLER, as well as Representatives COLLINS, JEFFRIES, and others for their hard work on this bill.

As the Representative for California's 33rd Congressional District, these issues hit close to home. My district sits at the heart of California's music industry. It is home to thousands of brilliant songwriters, publishers, engineers, record producers, recording artists, and musicians.

I am proud to have worked with such a unique and engaged community. They make up different threads of the industry's fabric, but share a common goal of developing solutions to some of the most complex and longstanding copyright issues facing our country. Today, we honor that legacy by moving Federal music copyright forward.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. GOODLATTE. Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, how much time do I have remaining, please?

The SPEAKER pro tempore. The gentleman from New York has 5 minutes remaining. The gentleman from Virginia has 2 minutes remaining.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. JUDY CHU).

Ms. JUDY CHU of California. Mr. Speaker, I rise in strong support of the Music Modernization Act. As co-chair of the Congressional Creative Rights Caucus, I am proud to stand with my colleagues to support this consensus bill that aims to modernize our copyright law.

Music is at the heart of how we experience life. We count on the right song to help us express a moment better than we could ourselves.

For music creators, their works help them support their families, keep a roof over their head, and food on the table. But, for far too long, I have heard from songwriters whose compensation was less than pennies in digital play for number one hits, and I have heard from music legends who are touring well into their seventies because their works created before 1972 are not eligible for royalties on digital broadcasts.

This bill will help bring our copyright law into the digital era and address the gaps that prevent creators from receiving fair compensation for their work. Mr. Speaker, I urge my colleagues to vote for this bill. The lives of our most treasured creators depend on it.

Mr. GOODLATTE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CROWLEY), the distinguished Democratic Caucus chair and the lead sponsor of the AMP Act, which is included in this package.

Mr. CROWLEY. Mr. Speaker, I thank my friend and colleague from New York (Mr. NADLER) for yielding.

Mr. Speaker, I thank Chairman GOODLATTE, Ranking Member NADLER, Congressman DOUG COLLINS, Congressman HAKEEM JEFFRIES, and all of my friends on the Judiciary Committee for working in such a bipartisan fashion to get this important bill to the floor.

We all remember the iconic tune from the 1970s, ''I Write the Songs.'' First performed by Captain and Tennille and made popular by David Cassidy and, of course, Barry Manilow, the song encapsulates the universality of music.

While we rightly celebrate the artists and singers behind these hits and these great songs, there often are a number of individuals who work just as hard to make that song a hit. Because to make a great song, you need not just the writers and the singers, but also engineers, technicians, and producers, people like my friend Mike Clink, as well as Darrell Brown. They may not be as famous as Guns N' Roses or LeAnn Rimes, the folks they helped produce, but they are equally important when it comes to the process of making that music. But they are not often given the credit or compensation they so rightly deserve.

With this bill, that will finally change. We are making important updates to music copyright law to make sure that everyone with a role in making hits that get stuck in our heads gets paid for their fair share.

I am especially glad that my bill, the Allocation for Music Producers, or AMP Act, is included in this package. I thank my colleague across the aisle, TOM ROONEY, for working with me to help the many people who work so hard to make perfect the iconic recordings we hear every day.

This bill will, for the first time, make mention of engineers and producers in copyright law and provide a system for them to be directly paid for the hard work that they do.

As a musician and songwriter myself, I am so glad to see bipartisan agreement around these important issues. I am proud to see all of the various folks in the recording industry coalesce around these critical fixes, and I am proud to vote today in support of fair compensation for creators in the music industry.

Mr. GOODLATTE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. COHEN).

Mr. COHEN. Mr. Speaker, I thank Mr. NADLER for yielding. I appreciate the work of Mr. GOODLATTE and the other sponsors, Mr. NADLER and everybody else.

This was really an issue where we showed that Congress can be productive, can get something done, working

with all of the different groups and bringing them together. It is a successful effort.

Music is very important to my hometown of Memphis, which, of course, is the hometown of Elvis Presley, where Sam Phillips put Elvis in the studio at Sun Records and produced the rock and roll that Chuck Berry and Little Richard had been playing but had not really reached a lot of people's ears. It did, and it set the world on fire. It brought a change in music and an appreciation for it.

In Memphis, we have had Isaac Hayes, who did so much; Sam and Dave; David Porter; and many, many Memphians who participated.

But I have personal friends in Warren Zevon, Jackson Browne, and J.D. Souther, who were great songwriters and performers and have not received, necessarily, their financial due as they should, and fairness, and this will get them done.

As Mr. CROWLEY mentioned, it will get engineers and producers payment for their work to help create these musical creations that people love.

Mr. Speaker, I thank all of the sponsors and appreciate the fact that I was able to participate and support it and be a cosponsor.

Mr. GOODLATTE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, my hometown of Austin, Texas, is modestly known as the ''Live Music Capital of the World.'' The title is well justified, from the South by Southwest music festival in the spring, to Austin City Limits on a couple of weekends in October. It is a wonderful place for live music.

It is the musicians and those who support them in technical ways—weekday, weekend, and in between—that make this industry so vital and who contribute so much to our local economy.

This piece of legislation is a step in the right direction. There is much more that needs to be done to ensure that our musicians and all who are involved in the creative economy get their fair compensation.

I am pleased this step is taken because these are really not only talented and creative people, but small-business people, and they deserve to have the property that they generate—their talent, their music, that adds so much joy to our lives—fairly compensated. This is a good step forward, and I certainly support the legislation.

Mr. NADLER. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, may I inquire how much time is remaining.

The SPEAKER pro tempore (Mr. LAMBORN). The gentleman from Virginia has 2 minutes remaining.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, this is landmark legislation that has been decades in coming. We have not had a significant review of our music licensing and copyright laws in many, many, many years.

There are many people to be thanked, including the staff of the Judiciary Committee on both sides of the aisle. I particularly want to recognize Joe Keeley, who is the chief counsel of the Courts, Intellectual Property, and the Internet Subcommittee.

I also want to thank the leadership of the committee who have worked for many, many years on intellectual property issues: Shelley Husband, the chief of staff and general counsel; and Branden Ritchie, the chief counsel of the committee.

Time doesn't allow me to recognize everyone, but I especially want to recognize the Courts, Intellectual Property, and the Internet Subcommittee vice chairman, DOUG COLLINS. He and his staff have put literally hundreds and hundreds of hours into aspects of this legislation, and I want to personally thank him for that work as well.

This legislation has very strong, bipartisan support. It is supported by groups that look at intellectual property issues across the ideological spectrum, and it is nearly universally supported by the music industry, the technology companies, and others that provide the platforms on which that music is performed.

It is going to more fairly treat so many sectors of the music industry that it would be a shame not to see this legislation pass the House with a very strong, bipartisan vote, go to the Senate, pass there, and then on to the President's desk, where I have every confidence it will be signed into law.

During the course of many years of review of our copyright laws, we learned that our music licensing laws were no longer working as intended for songwriters, artists, and creators, people behind the scenes for the companies that deliver the music in innovative ways to our consumers.

The Music Modernization Act, a product of the Judiciary Committee's comprehensive copyright review, is a bipartisan bill. I urge my colleagues to join together and pass it and send it to the Senate.

Mr. Speaker, I yield back the balance of my time.

Mrs. TORRES. Mr. Speaker, I rise in support of H.R. 5447, The Music Modernization Act. Mr. Speaker, there is broad, bipartisan agreement that current music licensing laws no longer meet the needs of creators and music providers in the digital age. Southern California has established itself as a leader in the entertainment industry, and supporting our artists and music industry is a job creator for my constituents.

This bill would address the inefficiencies in the music industry's licensing system by establishing uniformity in the licensing process. Licenses will now be managed by one entity which in turn would be paid for by the licensees. In addition to an increase in efficiency, the Music Modernization Act would foster a more transparent relationship between creators and music platforms. Information regarding music owed royalties would be easily accessible through the database created by the Music Modernization Act. This transparency will surely improve the working relationship between creators and music platforms and aid the music industry's innovation process.

Most importantly, this bill would establish a uniformed rate that would allow song writers and artists to receive fair market pay for their ideas and creations.

As a society, we value the work and products of artists, creators, and the music industry. For years now, creators, and music providers have spoken out about the outdated music licensing process and the issues they repeatedly face because of its flawed system. It is only fair that we address these inefficiencies and bring the music industries' processes in accordance with the digital age.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5447, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GOODLATTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

□ 1500

## PROVIDING FOR THE OPERATIONS OF THE FEDERAL COLUMBIA RIVER POWER SYSTEM

Mr. BISHOP of Utah. Mr. Speaker, pursuant to House Resolution 839, I call up the bill (H.R. 3144) to provide for operations of the Federal Columbia River Power System pursuant to a certain operation plan for a specified period of time, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BYRNE). Pursuant to House Resolution 839, the amendment printed in part B of House Report 115–650 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 3144

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DEFINITIONS.**

For the purposes of this Act:

(1) FCRPS.—The term ''FCRPS'' means those portions of the Federal Columbia River Power System that are the subject of the Supplemental Opinion.

(2) SECRETARIES.—The term ''Secretaries'' means—

(A) the Secretary of the Interior, acting through the Bureau of Reclamation;

(B) the Secretary of Energy, acting through the Bonneville Power Administration; and