

106TH CONGRESS
2D SESSION

H. R. 4846

AN ACT

To establish the National Recording Registry in the Library of Congress to maintain and preserve sound recordings that are culturally, historically, or aesthetically significant, and for other purposes.

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To establish the National Recording Registry in the Library of Congress to maintain and preserve sound recordings that are culturally, historically, or aesthetically significant, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Recording
3 Preservation Act of 2000”.

4 **TITLE I—SOUND RECORDING
5 PRESERVATION BY THE LI-
6 BRARY OF CONGRESS**

7 **Subtitle A—National Recording
8 Registry**

9 **SEC. 101. NATIONAL RECORDING REGISTRY OF THE LI-
10 BRARY OF CONGRESS.**

11 The Librarian of Congress shall establish the Na-
12 tional Recording Registry for the purpose of maintaining
13 and preserving sound recordings that are culturally, his-
14 torically, or aesthetically significant.

15 **SEC. 102. DUTIES OF LIBRARIAN OF CONGRESS.**

16 (a) **ESTABLISHMENT OF CRITERIA AND PROCE-
17 DURES.**—For purposes of carrying out this subtitle, the
18 Librarian shall—

19 (1) establish criteria and procedures under
20 which sound recordings may be included in the Na-
21 tional Recording Registry, except that no sound re-
22 cording shall be eligible for inclusion in the National
23 Recording Registry until 10 years after the record-
24 ing’s creation;

25 (2) establish procedures under which the gen-
26 eral public may make recommendations to the Na-

1 tional Recording Preservation Board established
2 under subtitle C regarding the inclusion of sound re-
3 cordings in the National Recording Registry; and

4 (3) determine which sound recordings satisfy
5 the criteria established under paragraph (1) and se-
6 lect such recordings for inclusion in the National Re-
7 cording Registry.

8 (b) PUBLICATION OF SOUND RECORDINGS IN THE
9 REGISTRY.—The Librarian shall publish in the Federal
10 Register the name of each sound recording that is selected
11 for inclusion in the National Recording Registry.

12 **SEC. 103. SEAL OF THE NATIONAL RECORDING REGISTRY.**

13 (a) IN GENERAL.—The Librarian shall provide a seal
14 to indicate that a sound recording has been included in
15 the National Recording Registry and is the Registry
16 version of that recording.

17 (b) USE OF SEAL.—The Librarian shall establish
18 guidelines for approval of the use of the seal provided
19 under subsection (a), and shall include in the guidelines
20 the following:

21 (1) The seal may only be used on recording
22 copies of the Registry version of a sound recording.

23 (2) The seal may be used only after the Librar-
24 ian has given approval to those persons seeking to
25 apply the seal in accordance with the guidelines.

9 (4) Anyone authorized to place the seal on any
10 recording copy of any Registry version of a sound
11 recording may accompany such seal with the fol-
12 lowing language: “This sound recording is selected
13 for inclusion in the National Recording Registry by
14 the Librarian of Congress in consultation with the
15 National Recording Preservation Board of the Li-
16 brary of Congress because of its cultural, historical,
17 or aesthetic significance.”.

18 (c) EFFECTIVE DATE OF THE SEAL.—The use of the
19 seal provided under subsection (a) with respect to a sound
20 recording shall be effective beginning on the date the Li-
21 brarian publishes in the Federal Register (in accordance
22 with section 102(b)) the name of the recording, as selected
23 for inclusion in the National Recording Registry.

24 (d) PROHIBITED USES OF THE SEAL.—

6 (A) is not included in the National Record-
7 ing Registry; or

16 (e) REMEDIES FOR VIOLATIONS.—

21 (2) RELIEF.—

22 (A) REMOVAL OF SEAL.—Except as pro-
23 vided in subparagraph (B), relief for violation
24 of subsection (d) shall be limited to the removal

1 of the seal from the sound recording involved in
2 the violation.

13 SEC. 104. NATIONAL RECORDING REGISTRY COLLECTION
14 OF THE LIBRARY OF CONGRESS.

15 (a) IN GENERAL.—All copies of sound recordings on
16 the National Recording Registry that are received by the
17 Librarian under subsection (b) shall be maintained in the
18 Library of Congress and be known as the “National Re-
19 cording Registry Collection of the Library of Congress”.
20 The Librarian shall by regulation and in accordance with
21 title 17, United States Code, provide for reasonable access
22 to the sound recordings and other materials in such collec-
23 tion for scholarly and research purposes.

24 (b) ACQUISITION OF QUALITY COPIES.—

13 (c) PROPERTY OF UNITED STATES.—All copies of
14 sound recordings on the National Recording Registry that
15 are received by the Librarian under subsection (b) shall
16 become the property of the United States Government,
17 subject to the provisions of title 17, United States Code.

18 **Subtitle B—National Sound** 19 **Recording Preservation Program**

20 SEC. 111. ESTABLISHMENT OF PROGRAM BY LIBRARIAN OF
21 CONGRESS.

22 (a) IN GENERAL.—The Librarian shall, after con-
23 sultation with the National Recording Preservation Board
24 established under subtitle C, implement a comprehensive
25 national sound recording preservation program, in con-

1 junction with other sound recording archivists, educators
2 and historians, copyright owners, recording industry rep-
3 resentatives, and others involved in activities related to
4 sound recording preservation, and taking into account
5 studies conducted by the Board.

6 (b) CONTENTS OF PROGRAM SPECIFIED.—The pro-
7 gram established under subsection (a) shall—

8 (1) coordinate activities to assure that efforts of
9 archivists and copyright owners, and others in the
10 public and private sector, are effective and com-
11 plementary;

12 (2) generate public awareness of and support
13 for these activities;

14 (3) increase accessibility of sound recordings for
15 educational purposes;

16 (4) undertake studies and investigations of
17 sound recording preservation activities as needed, in-
18 cluding the efficacy of new technologies, and rec-
19 ommend solutions to improve these practices; and

20 (5) utilize the audiovisual conservation center of
21 the Library of Congress at Culpeper, Virginia, to en-
22 sure that preserved sound recordings included in the
23 National Recording Registry are stored in a proper
24 manner and disseminated to researchers, scholars,
25 and the public as may be appropriate in accordance

1 with title 17, United States Code, and the terms of
2 any agreements between the Librarian and persons
3 who hold copyrights to such recordings.

4 **SEC. 112. PROMOTING ACCESSIBILITY AND PUBLIC AWARE-
5 NESS OF SOUND RECORDINGS.**

6 The Librarian shall carry out activities to make
7 sound recordings included in the National Recording Reg-
8 istry more broadly accessible for research and educational
9 purposes and to generate public awareness and support
10 of the Registry and the comprehensive national sound re-
11 cording preservation program established under this sub-
12 title.

13 **Subtitle C—National Recording
14 Preservation Board**

15 **SEC. 121. ESTABLISHMENT.**

16 The Librarian shall establish in the Library of Con-
17 gress a National Recording Preservation Board whose
18 members shall be selected in accordance with the proce-
19 dures described in section 122.

20 **SEC. 122. APPOINTMENT OF MEMBERS.**

21 (a) **SELECTIONS FROM LISTS SUBMITTED BY ORGA-
22 NIZATIONS.—**

23 (1) **IN GENERAL.**—The Librarian shall request
24 each organization described in paragraph (2) to sub-
25 mit a list of three candidates qualified to serve as

1 a member of the Board. The Librarian shall appoint
2 one member from each such list, and shall designate
3 from that list an alternate who may attend at Board
4 expense those meetings which the individual ap-
5 pointed to the Board cannot attend.

8 (A) National Academy of Recording Arts
9 and Sciences (NARAS).

10 (B) Recording Industry Association of
11 America (RIAA).

12 (C) Association for Recorded Sound Collections (ARSC).
13

14 (D) American Society of Composers, Au-
15 thors and Publishers (ASCAP).

16 (E) Broadcast Music, Inc. (BMI).

17 (F) Songwriters Association (SESAC).

18 (G) American Federation of Musicians
19 (AF of M).

20 (H) Music Library Association.

21 (I) American Musicological Society.

22 (J) National Archives and Record Admin-
23 istration.

24 (K) National Association of Recording
25 Merchandisers (NARM).

- 1 (L) Society for Ethnomusicology.
- 2 (M) American Folklore Society.
- 3 (N) Country Music Foundation.
- 4 (O) Audio Engineering Society (AES).
- 5 (P) National Academy of Popular Music.
- 6 (Q) Digital Media Association (DiMA).

7 (b) OTHER MEMBERS.—In addition to the members
8 appointed under subsection (a), the Librarian may appoint
9 not more than five members-at-large. The Librarian shall
10 select an alternate for each member-at-large, who may at-
11 tend at Board expense those meetings that the member-
12 at-large cannot attend.

13 (c) CHAIR.—The Librarian shall appoint one member
14 of the Board to serve as Chair.

15 (d) TERM OF OFFICE.—

1 period fails to attend at least one regularly sched-
2 uled Board meeting.

11 SEC. 123. SERVICE OF MEMBERS; MEETINGS.

12 (a) REIMBURSEMENT OF EXPENSES.—Members of
13 the Board shall serve without pay, but may receive travel
14 expenses, including per diem in lieu of subsistence, in ac-
15 cordance with sections 5702 and 5703 of title 5, United
16 States Code.

17 (b) CONFLICT OF INTEREST.—The Librarian shall
18 establish rules and procedures to address any potential
19 conflict of interest between a member of the Board and
20 responsibilities of the Board.

21 (c) MEETINGS.—The Board shall meet at least once
22 each fiscal year. Meetings shall be at the call of the Li-
23 brarian.

24 (d) QUORUM.—Eleven members of the Board shall
25 constitute a quorum for the transaction of business.

1 **SEC. 124. RESPONSIBILITIES OF BOARD.**2 (a) REVIEW AND RECOMMENDATION OF NOMINA-
3 TIONS FOR NATIONAL RECORDING REGISTRY.—4 (1) IN GENERAL.—The Board shall review
5 nominations of sound recordings submitted to it for
6 inclusion in the National Recording Registry and ad-
7 vise the Librarian, as provided in subtitle A, with re-
8 spect to the inclusion of such recordings in the Reg-
9 istry and the preservation of these and other sound
10 recordings that are culturally, historically, or aes-
11 thetically significant.12 (2) SOURCE OF NOMINATIONS.—The Board
13 shall consider for inclusion in the National Record-
14 ing Registry nominations submitted by the general
15 public as well as representatives of sound recording
16 archives and the sound recording industry (such as
17 the guilds and societies representing sound recording
18 artists) and other creative artists.19 (b) STUDY AND REPORT ON SOUND RECORDING
20 PRESERVATION AND RESTORATION.—The Board shall
21 conduct a study and issue a report on the following issues:22 (1) The current state of sound recording
23 archiving, preservation and restoration activities.24 (2) Taking into account the research and other
25 activities carried out by or on behalf of the National

1 Audio-Visual Conservation Center at Culpeper,
2 Virginia—

3 (A) the methodology and standards needed
4 to make the transition from analog “open reel”
5 preservation of sound recordings to digital pres-
6 ervation of sound recordings; and

(B) standards for access to preserved sound recordings by researchers, educators, and other interested parties.

10 (3) The establishment of clear standards for
11 copying old sound recordings (including equipment
12 specifications and equalization guidelines).

13 (4) Current laws and restrictions regarding the
14 use of archives of sound recordings, including rec-
15 ommendations for changes in such laws and restric-
16 tions to enable the Library of Congress and other
17 nonprofit institutions in the field of sound recording
18 preservation to make their collections available to re-
19 searchers in a digital format.

20 (5) Copyright and other laws applicable to the
21 preservation of sound recordings.

22 SEC. 125. GENERAL POWERS OF BOARD.

23 (a) IN GENERAL.—The Board may, for the purpose
24 of carrying out its duties, hold such hearings, sit and act
25 at such times and places, take such testimony, and receive

1 such evidence, as the Librarian and the Board consider
2 appropriate.

3 (b) SERVICE ON FOUNDATION.—Two sitting mem-
4 bers of the Board shall be appointed by the Librarian and
5 shall serve as members of the board of directors of the
6 National Recording Preservation Foundation, in accord-
7 ance with section 152403 of title 36, United States Code.

8 **Subtitle D—General Provisions**

9 **SEC. 131. DEFINITIONS.**

10 As used in this title:

11 (1) The term “Librarian” means the Librarian
12 of Congress.

13 (2) The term “Board” means the National Re-
14 cording Preservation Board.

15 (3) The term “sound recording” has the mean-
16 ing given such term in section 101 of title 17,
17 United States Code.

18 (4) The term “publication” has the meaning
19 given such term in section 101 of title 17, United
20 States Code.

21 (5) The term “Registry version” means, with
22 respect to a sound recording, the version of a record-
23 ing first published or offered for mass distribution
24 whether as a publication or a broadcast, or as com-
25 plete a version as bona fide preservation and res-

1 toration activities by the Librarian, an archivist
2 other than the Librarian, or the copyright legal
3 owner can compile in those cases where the original
4 material has been irretrievably lost or the recording
5 is unpublished.

6 **SEC. 132. STAFF; EXPERTS AND CONSULTANTS.**

7 (a) STAFF.—The Librarian may appoint and fix the
8 pay of such personnel as the Librarian considers appro-
9 priate to carry out this title.

10 (b) EXPERTS AND CONSULTANTS.—The Librarian
11 may, in carrying out this title, procure temporary and
12 intermittent services under section 3109(b) of title 5,
13 United States Code, but at rates for individuals not to
14 exceed the daily equivalent of the maximum rate of basic
15 pay payable for level 15 of the General Schedule. In no
16 case may a member of the Board (including an alternate
17 member) be paid as an expert or consultant under this
18 section.

19 **SEC. 133. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to the Li-
21 brarian for each of the first 7 fiscal years beginning on
22 or after the date of the enactment of this Act such sums
23 as may be necessary to carry out this title, except that
24 the amount authorized for any fiscal year may not exceed
25 \$250,000.

1 **TITLE II—NATIONAL RECORD-
2 ING PRESERVATION FOUND-
3 TION**

4 SEC. 201. NATIONAL RECORDING PRESERVATION FOUNDA-
5 TION.

6 (a) IN GENERAL.—Part B of subtitle II of title 36,
7 United States Code, is amended by inserting after chapter
8 1523 the following:

9 **“CHAPTER 1524—NATIONAL RECORDING**
10 **PRESERVATION FOUNDATION**

- “See.
- “152401. Organization.
- “152402. Purposes.
- “152403. Board of directors.
- “152404. Officers and employees.
- “152405. Powers.
- “152406. Principal office.
- “152407. Provision and acceptance of support by Librarian of Congress.
- “152408. Service of process.
- “152409. Civil action by Attorney General for equitable relief.
- “152410. Immunity of United States Government.
- “152411. Authorization of appropriations.
- “152412. Annual report.

11 “§ 152401. Organization

12 "(a) FEDERAL CHARTER.—The National Recording
13 Preservation Foundation (in this chapter, the "corpora-
14 tion") is a federally chartered corporation.

15 "(b) NATURE OF CORPORATION.—The corporation is
16 a charitable and nonprofit corporation and is not an agen-
17 cy or establishment of the United States Government.

18 "(c) PERPETUAL EXISTENCE.—Except as otherwise
19 provided, the corporation has perpetual existence.

1 **“§ 152402. Purposes**

2 “The purposes of the corporation are to—

3 “(1) encourage, accept, and administer private
4 gifts to promote and ensure the preservation and
5 public accessibility of the nation’s sound recording
6 heritage held at the Library of Congress and other
7 public and nonprofit archives throughout the United
8 States; and9 “(2) further the goals of the Library of Con-
10 gress and the National Recording Preservation
11 Board in connection with their activities under the
12 National Recording Preservation Act of 2000.13 **“§ 152403. Board of directors**14 “(a) GENERAL.—The board of directors is the gov-
15 erning body of the corporation.16 “(b) MEMBERS AND APPOINTMENT.—(1) The Li-
17 brarian of Congress (hereafter in this chapter referred to
18 as the “Librarian”) is an ex officio nonvoting member of
19 the board. Not later than 90 days after the date of the
20 enactment of this chapter, the Librarian shall appoint the
21 directors to the board in accordance with paragraph (2).

22 “(2)(A) The board consists of nine directors.

23 “(B) Each director shall be a United States citizen.

24 “(C) At least six directors shall be knowledgeable or
25 experienced sound in recording production, distribution,
26 preservation, or restoration, including two who are sitting

1 members of the National Recording Preservation Board.
2 These six directors shall, to the extent practicable, rep-
3 resent diverse points of view from the sound recording
4 community.

5 “(3) A director is not an employee of the Library of
6 Congress and appointment to the board does not con-
7 stitute appointment as an officer or employee of the
8 United States Government for the purpose of any law of
9 the United States.

10 “(4) The terms of office of the directors are 4 years.
11 An individual may not serve more than two consecutive
12 terms.

13 “(5) A vacancy on the board shall be filled in the
14 manner in which the original appointment was made.

15 “(c) CHAIR.—The Librarian shall appoint one of the
16 directors as the initial chair of the board for a 2-year term.
17 Thereafter, the chair shall be appointed and removed in
18 accordance with the bylaws of the corporation.

19 “(d) QUORUM.—The number of directors constituting
20 a quorum of the board shall be established under the by-
21 laws of the corporation.

22 “(e) MEETINGS.—The board shall meet at the call
23 of the Librarian for regularly scheduled meetings.

24 “(f) REIMBURSEMENT OF EXPENSES.—Directors
25 shall serve without compensation but may receive travel

1 expenses, including per diem in lieu of subsistence, in ac-
2 cordance with sections 5702 and 5703 of title 5.

3 “(g) LIABILITY OF DIRECTORS.—Directors are not
4 personally liable, except for gross negligence.

5 **“§ 152404. Officers and employees**

6 “(a) SECRETARY OF THE BOARD.—(1) The Librar-
7 ian shall appoint a Secretary of the Board to serve as exec-
8 utive director of the corporation. The Librarian may re-
9 move the Secretary.

10 “(2) The Secretary shall be knowledgeable and expe-
11 rienced in matters relating to—

12 “(A) sound recording preservation and restora-
13 tion activities;

14 “(B) financial management; and

15 “(C) fundraising.

16 “(b) APPOINTMENT OF OFFICERS.—Except as pro-
17 vided in subsection (a) of this section, the board of direc-
18 tors appoints, removes, and replaces officers of the cor-
19 poration.

20 “(c) APPOINTMENT OF EMPLOYEES.—Except as pro-
21 vided in subsection (a) of this section, the Secretary ap-
22 points, removes, and replaces employees of the corpora-
23 tion.

24 “(d) STATUS AND COMPENSATION OF EMPLOYEES.—
25 Employees of the corporation (including the Secretary)—

1 “(1) are not employees of the Library of Con-
2 gress;

3 “(2) shall be appointed and removed without re-
4 gard to the provisions of title 5 governing appoint-
5 ments in the competitive service; and

6 “(3) may be paid without regard to chapter 51
7 and subchapter III of chapter 53 of title 5, except
8 that an employee may not be paid more than the an-
9 nual rate of basic pay for level 15 of the General
10 Schedule under section 5107 of title 5.

11 **“§ 152405. Powers**

12 “(a) GENERAL.—The corporation may—

13 “(1) adopt a constitution and bylaws;

14 “(2) adopt a seal which shall be judicially no-
15 ticed; and

16 “(3) do any other act necessary to carry out
17 this chapter.

18 “(b) POWERS AS TRUSTEE.—To carry out its pur-
19 poses, the corporation has the usual powers of a corpora-
20 tion acting as a trustee in the District of Columbia, includ-
21 ing the power—

22 “(1) to accept, receive, solicit, hold, administer,
23 and use any gift, devise, or bequest, either absolutely
24 or in trust, of property or any income from or other
25 interest in property;

1 “(2) to acquire property or an interest in prop-
2 erty by purchase or exchange;

3 “(3) unless otherwise required by an instrument
4 of transfer, to sell, donate, lease, invest, or otherwise
5 dispose of any property or income from property;

6 “(4) to borrow money and issue instruments of
7 indebtedness;

8 “(5) to make contracts and other arrangements
9 with public agencies and private organizations and
10 persons and to make payments necessary to carry
11 out its functions;

12 “(6) to sue and be sued; and

13 “(7) to do any other act necessary and proper
14 to carry out the purposes of the corporation.

15 “(c) ENCUMBERED OR RESTRICTED GIFTS.—A gift,
16 devise, or bequest may be accepted by the corporation even
17 though it is encumbered, restricted, or subject to beneficial
18 interests of private persons, if any current or future inter-
19 est is for the benefit of the corporation.

20 **“§ 152406. Principal office**

21 “The principal office of the corporation shall be in
22 the District of Columbia. However, the corporation may
23 conduct business throughout the States, territories, and
24 possessions of the United States.

1 **“§ 152407. Provision and acceptance of support by Li-**
2 **brarian of Congress**

3 “(a) PROVISION BY LIBRARIAN.—(1) The Librarian
4 may provide personnel, facilities, and other administrative
5 services to the corporation. Administrative services may
6 include reimbursement of expenses under section
7 152403(f).

8 “(2) The corporation shall reimburse the Librarian
9 for support provided under paragraph (1) of this sub-
10 section. Amounts reimbursed shall be deposited in the
11 Treasury to the credit of the appropriations then current
12 and chargeable for the cost of providing the support.

13 “(b) ACCEPTANCE BY LIBRARIAN.—The Librarian
14 may accept, without regard to chapters 33 and 51 and
15 subchapter III of chapter 53 of title 5 and related regula-
16 tions, the services of the corporation and its directors, offi-
17 cers, and employees as volunteers in performing functions
18 authorized under this chapter, without compensation from
19 the Library of Congress.

20 **“§ 152408. Service of process**

21 “The corporation shall have a designated agent to re-
22 ceive service of process for the corporation. Notice to or
23 service on the agent, or mailed to the business address
24 of the agent, is notice to or service on the corporation.

1 **“§ 152409. Civil action by Attorney General for equi-**2 **table relief**3 “The Attorney General may bring a civil action in
4 the United States District Court for the District of Colum-
5 bia for appropriate equitable relief if the corporation—6 “(1) engages or threatens to engage in any act,
7 practice, or policy that is inconsistent with the pur-
8 poses in section 152402 of this title; or9 “(2) refuses, fails, or neglects to carry out its
10 obligations under this chapter or threatens to do so.11 **“§ 152410. Immunity of United States Government**12 “The United States Government is not liable for any
13 debts, defaults, acts, or omissions of the corporation. The
14 full faith and credit of the Government does not extend
15 to any obligation of the corporation.16 **“§ 152411. Authorization of appropriations**17 “(a) AUTHORIZATION.—There are authorized to be
18 appropriated to the corporation for each of the first 7 fis-
19 cal years beginning on or after the date of the enactment
20 of this chapter an amount not to exceed the amount of
21 private contributions (whether in currency, services, or
22 property) made to the corporation by private persons and
23 State and local governments.24 “(b) LIMITATION RELATED TO ADMINISTRATIVE EX-
25 PENSES.—Except as permitted under section 152407,
26 amounts authorized under this section may not be used

1 by the corporation for administrative expenses of the cor-
2 poration, including salaries, travel, transportation, and
3 overhead expenses.

4 **“§ 152412. Annual report**

5 “As soon as practicable after the end of each fiscal
6 year, the corporation shall submit a report to the Librar-
7 ian for transmission to Congress on the activities of the
8 corporation during the prior fiscal year, including a com-
9 plete statement of its receipts, expenditures, and invest-
10 ments.”.

11 (b) CLERICAL AMENDMENT.—The table of chapters
12 for part B of subtitle II of title 36, United States Code,
13 is amended by inserting after the item relating to chapter
14 1523 the following new item:

“1524. National Recording Preservation Foundation152401”.

Passed the House of Representatives July 25, 2000.

Attest:

Clerk.