

102D CONGRESS
1ST SESSION

S. 1345

To amend the National Film Preservation Act of 1988 to modify the composition and procedures of the National Film Preservation Board and the Librarian of Congress in preserving national films, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 20 (legislative day, JUNE 11), 1991

Mr. LEAHY (for himself, Mr. PELL, Mr. STEVENS, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the National Film Preservation Act of 1988 to modify the composition and procedures of the National Film Preservation Board and the Librarian of Congress in preserving national films, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "National Film Preser-
5 vation Act of 1991".

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) motion pictures are an indigenous American
2 art form that has been emulated throughout the
3 world;

4 (2) certain motion pictures represent an endur-
5 ing part of our Nation's historical and cultural herit-
6 age;

7 (3) because of deterioration or loss, less than
8 one-half of the feature-length films produced in the
9 United States before 1951, including only 20 per-
10 cent of the silent films; still exist and many of the
11 films produced after 1951 are deteriorating at an
12 alarming rate; and

13 (4) it is appropriate and necessary for the Fed-
14 eral Government to—

15 (A) recognize motion pictures as a signifi-
16 cant American art form deserving of protection,
17 including preservation and restoration; and

18 (B) establish a National Film Registry of
19 films that represent an enduring part of our na-
20 tional, historical, and cultural heritage, which
21 Registry should be established and maintained
22 in the Library of Congress; and

23 (5) to the extent possible, and with the permis-
24 sion of the copyright owners, films selected for inclu-
25 sion in the National Film Registry should be made

1 widely available to the American public in their Reg-
2 istry versions.

3 **SEC. 3. NATIONAL FILM REGISTRY OF THE LIBRARY OF**
4 **CONGRESS.**

5 The Librarian of Congress (hereafter in this Act re-
6 ferred to as the “Librarian”) shall establish a National
7 Film Registry under the provisions of this Act, for the
8 purposes of recognizing and preserving films that are cul-
9 turally, historically, or aesthetically significant.

10 **SEC. 4. DUTIES OF THE LIBRARIAN OF CONGRESS.**

11 (a) DUTIES.—The Librarian shall, after consultation
12 with the Board established under section 5—

13 (1) after completion of the study required under
14 section 12, establish a comprehensive national film
15 preservation program for films, in conjunction with
16 other major film archives, with the objectives of—

17 (A) coordinating activities to assure that
18 ongoing efforts of archivists and copyright own-
19 ers, and others in the public and private sector
20 are effective and complementary;

21 (B) generating public awareness of and
22 support for those activities;

23 (C) increasing accessibility of films for
24 educational purposes; and

1 (D) improving nationwide activities in the
2 preservation of works in other media such as
3 videotape;

4 (2) establish criteria and procedures pursuant
5 to which films may be included in the National Film
6 Registry, except that no film shall be eligible for in-
7 clusion in the National Film Registry until 10 years
8 after such film's first publication;

9 (3) establish procedures whereby the general
10 public may make recommendations to the Board re-
11 garding the inclusion of films in such National Film
12 Registry;

13 (4) establish procedures for the examination by
14 the Library of Congress of copies of films named for
15 inclusion in the National Film Registry to determine
16 eligibility for the use of the seal of the National
17 Film Registry;

18 (5) determine which films satisfy the criteria
19 developed under paragraph (2) and qualify to be in-
20 cluded in the National Film Registry, except that
21 the Librarian shall not select more than 25 films
22 each year for inclusion in such Registry;

23 (6) publish in the Federal Register the name of
24 each film that is selected for inclusion in the Nation-
25 al Film Registry;

1 (7) provide a seal to indicate that a film is in-
2 cluded in the National Film Registry;

3 (8) to the extent practicable, ensure, subject to
4 the rights of copyright owners, that there is a Regis-
5 try version of each film selected for the National
6 Film Registry;

7 (9) publish in the Federal Register the stand-
8 ards for preservation or restoration that shall qualify
9 films for use of the seal; and

10 (10) submit an annual report to the appropriate
11 committees of the Congress, listing films included in
12 the National Film Registry and describing the activi-
13 ties of the Board.

14 (b) SEAL.—A seal provided for a film under subsec-
15 tion (a)(7) may be used on any copy of the Registry ver-
16 sion of such film as defined in section 11(6). Before such
17 seal may be used, the Library of Congress shall have ex-
18 amined and approved the print from which the copy was
19 made. In the case of copyrighted works, only the copyright
20 owner or his duly authorized licensee may place or author-
21 ize the placement of a seal on a copy of a film selected
22 for inclusion in the National Film Registry. In the case
23 of works no longer protected by copyright, the Library
24 may affix a seal. The person authorized by this subsection
25 to place a seal on a copy of a film selected for inclusion

1 in the National Film Registry may accompany such seal
2 with the following language: "This film is included in the
3 National Film Registry, which is maintained by the Li-
4 brary of Congress, and was preserved under the National
5 Film Preservation Act of 1991."

6 **SEC. 5. NATIONAL FILM PRESERVATION BOARD.**

7 (a) NUMBER AND APPOINTMENT.—(1) The Librari-
8 an shall establish in the Library of Congress a National
9 Film Preservation Board to be comprised of 17 members,
10 selected by the Librarian in accordance with the provisions
11 of this section. Each organization listed in subparagraphs
12 (A) through (P) shall submit a list of not less than three
13 qualified candidates to the Librarian. With the exception
14 of the member listed in subparagraph (Q), the Librarian
15 shall appoint 1 member from each such list submitted by
16 the following organizations, and shall designate from that
17 list an alternate who may attend those meetings to which
18 the individual appointed to the Board cannot attend. Such
19 organizations shall include—

20 (A) the Academy of Motion Picture Arts and
21 Sciences;

22 (B) the Directors Guild of America;

23 (C) the Writers Guild of America East and
24 West, appointed in accordance with paragraph (2);

25 (D) the National Society of Film Critics;

- 1 (E) the Society for Cinema Studies;
2 (F) the American Film Institute;
3 (G) the Department of Theatre, Film and Tele-
4 vision, College of Fine Arts at the University of
5 California, Los Angeles;
6 (H) the Department of Film and Television at
7 New York University Tisch School of the Arts;
8 (I) the University Film and Video Association;
9 (J) the Motion Picture Association of America;
10 (K) the National Association of Broadcasters;
11 (L) the Alliance of Motion Picture and Televi-
12 sion Producers;
13 (M) the Screen Actors Guild of America;
14 (N) the National Association of Theater Own-
15 ers;
16 (O) the American Society of Cinematographers;
17 (P) the United States Members of the Interna-
18 tional Federation of Film Archives; and
19 (Q) a member at large.

20 (2) Each organization under paragraph (1)(C) shall
21 nominate 3 candidates. The Librarian shall appoint a can-
22 didate from 1 organization as a member of the Board, and
23 shall select a candidate from the other organization as an
24 alternate.

1 (3) The member at large listed in paragraph (1)(Q)
2 shall be chosen by the Librarian from names submitted
3 by organizations in the film industry, creative artists, pro-
4 ducers, film critics, film preservation organizations, aca-
5 demic institutions with film study programs, and others
6 with knowledge of copyright law and of the importance,
7 use, and dissemination of films. The Librarian shall also
8 select from the names submitted in this paragraph an al-
9 ternate member at large who may attend those meetings
10 which the member at large cannot attend.

11 (b) CHAIRPERSON.—The Librarian shall appoint 1
12 member to serve as Chairperson.

13 (c) TERM OF OFFICE.—(1) The term of each member
14 of the Board shall be 3 years. There shall be no limit to
15 the number of terms that any individual member may
16 serve.

17 (2) A vacancy on the Board shall be filled in the man-
18 ner prescribed by the Librarian, except that no entity list-
19 ed in subsection (a) may have more than 1 nominee on
20 the Board at any time.

21 (d) QUORUM.—Nine members of the Board shall con-
22 stitute a quorum, but a lesser number may hold hearings.

23 (e) BASIC PAY.—Members of the Board shall serve
24 without pay. While away from their home or regular places
25 of business in the performance of services for the Board,

1 members of the Board shall be allowed travel expenses,
2 including per diem in lieu of subsistence, in the same man-
3 ner as persons employed intermittently in Government
4 service are allowed expenses under section 5701 of title
5 5, United States Code.

6 (f) MEETINGS.—The Board shall meet at least once
7 each calendar year. Meetings shall be at the call of the
8 Librarian.

9 (g) CONFLICT OF INTEREST.—The Librarian shall
10 establish rules and procedures to address any potential
11 conflict of interest between a member of the Board and
12 responsibilities of the Board.

13 **SEC. 6. POWERS OF THE BOARD.**

14 (a) IN GENERAL.—The Board may, for the purpose
15 of carrying out its duties, hold such hearings, sit and act
16 at such times and places, take such testimony, and receive
17 such evidence as the Librarian and Board considers appro-
18 priate.

19 (b) NOMINATION OF FILMS.—The Board shall con-
20 sider, for inclusion in the National Film Registry, nomina-
21 tions submitted by the general public as well as represent-
22 atives of the film industry, such as the guilds and societies
23 representing actors, directors, screenwriters, cinematogra-
24 phers and other creative artists, producers, film critics,

1 film preservation organizations and representatives for
2 academic institutions with film study programs.

3 (c) SELECTION OF FILMS.—The Board shall review
4 nominations of films submitted to it for inclusion in the
5 National Film Registry and consult with the Librarian
6 and make recommendations with respect to the selection
7 of films for the Registry and the preservation of these and
8 other films that are culturally, historically, or aesthetically
9 significant. The Board shall recommend and the Librarian
10 shall select not more than 25 films a year for inclusion
11 in the Registry.

12 **SEC. 7. NATIONAL FILM REGISTRY COLLECTION OF THE LI-**
13 **BRARY OF CONGRESS.**

14 (a) COPY OF FILM.—The Librarian shall endeavor to
15 obtain, by gift from the owner, an archival quality copy
16 of a Registry version of each film included in the National
17 Film Registry. Whenever possible the Librarian shall en-
18 deavor to obtain the best surviving materials, including
19 preprint materials.

20 (b) ADDITIONAL MATERIALS.—In addition, the Li-
21 brarian shall endeavor to obtain, for educational and re-
22 search purposes, additional materials related to each film,
23 such as background materials, production reports, shoot-
24 ing scripts (including continuity scripts) and other similar

1 materials. Such materials shall become a part of the collec-
2 tion described in subsection (d).

3 (c) PROPERTY OF THE UNITED STATES.—All copies
4 of films, and other materials, received by the Librarian
5 shall become the property of the United States Govern-
6 ment, except that nothing in this Act shall infringe on the
7 copyright owners' rights under title 17, United States
8 Code.

9 (d) REGISTRY COLLECTION.—All copies of films re-
10 ceived by the Librarian shall be maintained in a special
11 collection in the Library of Congress to be known as the
12 “National Film Registry Collection of the Library of Con-
13 gress”. The Librarian shall, by regulation, subject to the
14 limitations of title 17, United States Code—

15 (1) provide for reasonable access to films in
16 such collection for scholarly and research purposes;
17 and

18 (2) to the extent practicable, and with the per-
19 mission of the copyright owners, endeavor to exhibit
20 or encourage the exhibition of such films to the pub-
21 lic.

22 **SEC. 8. SEAL OF THE NATIONAL FILM REGISTRY.**

23 (a) USE OF THE SEAL.—No person shall knowingly
24 distribute or exhibit to the public a copy of a film which

1 bears a seal as described under section 4(a)(7) if such
2 film—

3 (1) is not included in the National Film Regis-
4 try; or

5 (2) is included in the National Film Registry,
6 but the print from which such copy was made was
7 not examined and approved for use of the seal by
8 the Library of Congress pursuant to section 4(b).

9 (b) EFFECTIVE DATE OF THE SEAL.—The use of the
10 seal as described in this section shall be effective for each
11 film after publication by the Librarian in the Federal Reg-
12 ister of the name of that film selected for inclusion in the
13 National Film Registry.

14 **SEC. 9. REMEDIES.**

15 (a) JURISDICTION.—The several district courts of the
16 United States shall have jurisdiction, for cause shown, to
17 prevent and restrain violations of section 8 of this Act
18 upon the application of the Librarian to the Attorney Gen-
19 eral of the United States acting through the several Unit-
20 ed States Attorneys in their several districts.

21 (b) RELIEF.—(1) Except as provided in paragraph
22 (2), relief shall be limited to the prospective removal of
23 the seal of the National Film Registry.

24 (2) In any case in which the Librarian finds a pattern
25 or practice of the willful violation of this Act, the United

1 States District Courts may order civil fines of not more
2 than \$10,000 and appropriate injunctive relief.

3 (c) EXCLUSIVE REMEDIES.—The remedies provided
4 under this section shall be the exclusive remedies under
5 this Act or any other Federal or State law, regarding the
6 use of the seal as described by section 4(a)(7).

7 **SEC. 10. STAFF OF BOARD; EXPERTS AND CONSULTANTS.**

8 (a) STAFF.—The Librarian may appoint and fix the
9 pay of such personnel as the Librarian considers appropri-
10 ate.

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

18 **SEC. 11. DEFINITIONS.**

19 For purposes of this Act:

20 (1) The term “Board” means the National
21 Film Preservation Board.

22 (2) The term “copy” used in reference to a film
23 means a copy fixed on film stock, not on other
24 media such as videotapes or laser disks.

1 (3) The term "film" means a motion picture as
2 defined in section 101 of title 17, United States
3 Code, except that such term excludes any works not
4 originally fixed on film stock, such as videotapes or
5 laser disks.

6 (4) The term "Librarian" means the Librarian
7 of Congress.

8 (5) The term "publication" means a publication
9 as defined in section 101 of title 17, United States
10 Code.

11 (6) The term "Registry version" means, with
12 respect to a film, the version of the film first pub-
13 lished or as complete a version as bona fide preser-
14 vation and restoration activities by the Library of
15 Congress or another archive acting pursuant to sec-
16 tion 4 can compile.

17 **SEC. 12. STUDY BY THE LIBRARIAN OF CONGRESS.**

18 The Librarian, after consultation with the Board,
19 shall conduct a study on the state of film preservation and
20 restoration, including the activities of the Library of Con-
21 gress and the other major film archives in the United
22 States. The Librarian shall consult with film archivists,
23 educators and historians, copyright owners, film industry
24 representatives, including those involved in the preserva-
25 tion of film, and others involved in activities related to

1 film preservation. No later than 1 year after the date of
2 enactment of this section, the Librarian shall submit to
3 the Congress a report containing the results of the study
4 conducted under this section.

5 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated to the Li-
7 brary of Congress, such sums as are necessary to carry
8 out the provisions of this Act, but in no fiscal year shall
9 such sum exceed \$250,000.

10 **SEC. 14. EFFECTIVE DATE.**

11 The provisions of this Act shall be effective on the
12 date of the enactment of this Act through September 30,
13 1997. The provisions of this Act shall apply to any copy
14 of any film, including films selected for inclusion in the
15 National Film Registry under the National Film Preserva-
16 tion Act of 1988. Films selected for the National Film
17 Registry under the National Film Preservation Act of
18 1988 shall be deemed to have been selected under this Act.

19 **SEC. 15. REPEAL.**

20 The National Film Preservation Act of 1988 (2
21 U.S.C. 178 et seq.) is repealed.

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