

The original documents are located in Box 38, folder “1/2/76 HR6673 American Folklife Preservation Act” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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Signed
1/2/76

APPROVED
JAN 2 - 1976

THE WHITE HOUSE

ACTION

WASHINGTON

Last Day: January 2

January 2, 1975

Statement
issued 1/3/76

Posted 1/3/76

TO ARCHIVES
1/5/76

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *[Signature]*
SUBJECT: H.R. 6673 - American Folklife Preservation Act

Attached for your consideration is H.R. 6673, sponsored by Representative Nedzi and five others, which would establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

A discussion of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill. Counsel's Office recommends that you issue the attached signing statement which points out several possible constitutional problems raised by the bill. Max Friedersdorf and I also recommend approval of the signing statement which has been cleared by Paul Theis.

RECOMMENDATION

That you sign H.R. 6673 at Tab B.

That you approve the signing statement at Tab C.

Approve *RC7* Disapprove _____



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 27 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6673 - American Folklife Preservation Act
Sponsor - Rep. Nedzi (D) Michigan and 5 others

Last Day for Action

January 2, 1976 - Friday

Purpose

To establish an American Folklife Center in the Library of Congress.

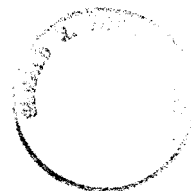
Agency Recommendations

Office of Management and Budget	Approval
Library of Congress	Approval
Smithsonian Institution	Approval
National Endowment for the Arts	Approval
National Endowment for the Humanities	No objection

Discussion

H.R. 6673 would establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

The Center would be directed by a Board of Trustees composed as follows: four members appointed by the President from among Federal officials concerned with folklife; four members appointed each by the President pro tempore of the Senate and the Speaker of the House of Representatives



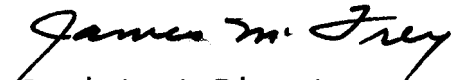
from among private individuals noted for their involvement in folklife; the Librarian of Congress; the Secretary of the Smithsonian; the Chairmen of the National Endowments for the Arts and the Humanities and the Director of the Center. The term of office would be six years. The Director of the Center shall serve at a rate not to exceed GS-18 with a Deputy serving at a rate not to exceed GS-16.

The Center would be authorized to enter into contracts for activities including research, scholarship, training, performances, publications, festivals, exhibits, displays, presentations, and workshops; and the purchase, receipt, production and support of educational projects for classroom and general usage. Contracts would be limited to two years, except that with the concurrence of two thirds of the Board, the term could be extended to five years.

The Center would also establish and maintain a national archive and center for American folklife, collect specific types of works for preservation in the archive and loan or otherwise make available such works to the public.

The Director would be required to submit an annual report of the Center's operations to the Librarian for inclusion in the annual report of the Library of Congress to the Congress. Appropriations authorized by the bill would be \$133,500 through September 30, 1976, \$295,000 for FY 1977 and \$349,000 for FY 1978.

In its letter on the enrolled bill, the Smithsonian Institution expressed the need to coordinate the highly diverse efforts being made by the National Endowments of the Arts and the Humanities, the Library of Congress and the Smithsonian in the study of American folk culture. It states: "we believe that the potential (of the legislation) for the support of research into and interpretation of American folklife traditions and arts can assist in the enrichment of the cultural life of the Nation."



Assistant Director
for Legislative Reference

Enclosures



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

To
J. Conaway
12-29-75
10.9.75



DEC 27 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 6673 - American Folklife Preservation Act
Sponsor - Rep. Nedzi (D) Michigan and 5 others

Last Day for Action

January 2, 1976 - Friday

Purpose

To establish an American Folklife Center in the Library of Congress.

Agency Recommendations

Office of Management and Budget	Approval
Library of Congress	Approval
Smithsonian Institution	Approval
National Endowment for the Arts	Approval
National Endowment for the Humanities	No objection

Discussion

H.R. 6673 would establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

The Center would be directed by a Board of Trustees composed as follows: four members appointed by the President from among Federal officials concerned with folklife; four members appointed each by the President pro tempore of the Senate and the Speaker of the House of Representatives



STATEMENT BY THE PRESIDENT

I have signed H.R. 6673, the "American Folklife Preservation Act."

H.R. 6673 establishes in the Library of Congress an American Folklife Center to preserve and present American folklife. The Center is to be directed by a Board of Trustees composed as follows: four members appointed by the President from among Federal officials concerned with folklife; four members appointed each by the President pro tempore of the Senate and the Speaker of the House of Representatives from among private individuals noted for their involvement in folklife; the Librarian of Congress; the Secretary of the Smithsonian; the Chairmen of the National Endowments for the Arts and the Humanities and the Director of the Center.

The Center is authorized to enter into contracts for activities including research, scholarship, training, publications, exhibits, workshops and educational projects for classroom and general usage. It will also establish and maintain a national archive and center for American folklife, collect specific types of works for preservation in the archive and loan such works to the public.

I have serious reservations concerning the constitutional propriety of placing the functions to be performed by the Center outside the Executive branch and the assignment of executive duties to officers appointed by Congress. However, given historical practice and custom in the area of cultural and educational affairs and the potential of H.R. 6673 to enrich the cultural life of the nation, I am granting my approval to the measure.

Department of Justice

Washington, D.C. 20530

DEC 31 1975

MEMORANDUM FOR THE HONORABLE PHILIP W. BUCHEN
Counsel to the President

Re: Enrolled Bill H.R. 6673, 94th Cong., 1st Sess., "To provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes."

This is in response to the telephone request of Mr. Barry Roth of your staff for the views of the Department of Justice on the constitutional aspects of the above-entitled enrolled bill, with which the department has had no prior contact.

The bill contains findings to the effect that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife, and that the encouragement and support of American folklife is an appropriate matter of concern to the Federal Government. Section 2. The bill then sets up an American Folklife Center in the Library of Congress. Section 4(a). The Center would be under the direction of a Board of Trustees composed as follows:

Four members appointed by the President of the United States;

Four members appointed by the President pro tempore of the Senate;

Four members appointed by the Speaker of the House of Representatives;

The Librarian of Congress;

The Secretary of the Smithsonian Institution;

The Chairman of the National Endowment for the Arts;

The Chairman of the National Endowment for the Humanities; and

The Director of the Center. Section 4(b).



The Librarian of Congress is empowered to appoint a Director of the Center after consultation with the Board. Section 4(f). The Director would be the chief executive officer of the Center, and would have responsibility for carrying out the functions of the Center, subject to the direction of the Board and the general supervision of the Librarian. Section 4(g).

Section 5 sets forth the functions which the Librarian of Congress is authorized to perform under the Act (subsection (a)) and provides that they are to be carried out through the Center (subsection (b)).

In our view the bill presents two important constitutional problems: The first involves the doctrine of the separation of powers, which requires that statutes assigning executive duties must be administered by the Executive branch and not by Congressional officers, such as the Librarian of Congress; the second is the principle that functions of an executive nature must be carried out by officers of the United States appointed in compliance with the requirements of Article II of the Constitution.

I.

Article I of the Constitution vests the legislative power of the United States in the Congress. Article II vests the Executive power of the United States in the President and directs him to "take Care that the laws be faithfully executed." This means that statutes creating functions of an executive nature are to be carried out by the Executive branch of the Government under the supervision of the President, and not by Congressional agencies. This basic constitutional consideration, of course, does not preclude the performance of internal Congressional functions and of Congressional services by Congressional officers. The bill, however, goes far beyond that. Some of the functions to be performed by the Librarian of Congress through the American Folklife Center have, it is true, a substantial nexus with the Library of Congress (see, e. g., section 5(a)(2)-(5))--though even as to these it is open to question whether they truly come within the ambit of

an institution whose primary purpose is to give library and reference service to Congress. This, however, cannot under any circumstances be said of the contract authority set forth in section 5(a)(1), empowering the Librarian to--

"(1) enter into, in conformity with Federal procurement statutes and regulations, contracts with individuals and groups for programs for the--

"(A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folk-life;

"(B) initiation, promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

"(C) purchase, receipt, production, arrangement for, and support of the production of exhibitions, displays, publications, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

"(D) purchase, production, arrangement for, and support of the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife."

These activities do not appear to be related to any internal Congressional function or service. While it is true that a few other functions of the Library, such as the provision of books and sound production records to the blind and other physically handicapped persons, 2 U.S.C. 135(a), are not directly so related either, they are at least a logical adjunct of the historical library function which the venerable institution has provided. While one may permit this for reasons of practicality and historical prescription, the extension of the institution's activities into the entirely unrelated field of funding folklife training and performances is a change of qualitative nature. The extension would thus have been made first, from an institution which serves the Congress as a library to one which serves the public in the same capacity; and finally, to one which serves the public in capacities entirely unrelated either to Congressional service or to libraries. This last extension moves the Library of Congress into areas now occupied by the National Endowment for the Arts, and the National Endowment for the Humanities (both Executive agencies).

II.

The second constitutional problem in the bill concerns the manner in which ten members of the Board of Trustees of the American Folklife Center are to be appointed.

Under the bill, the Board would perform important functions in the administration of the statutory program; its responsibilities would not be limited to advice. For example, it would give direction, not merely advice, to the Director of the Center, an official appointed by the Librarian (section 4(f)); and certain functions of the Center could be undertaken only if the Board considers them "appropriate." Sections 5(b), 6. Again, certain types of contracts may be entered into only with the concurrence of the Board. See, e.g., sections 6(a), 7(a)(2), (8). Under section 7(a)(7) a majority of two-thirds of the members of the Board may even waive otherwise applicable bonding requirements.

The Board therefore performs functions of an executive nature. Its activities are not merely of an advisory nature or limited to a single task of limited duration, as is the

case with so-called "ad hoc" officers. See The Constitution of the United States, Analysis and Interpretation, Sen. Doc. 92-82, p. 523 (1973).

It follows that the functions of the members of the Board of Trustees can be performed only by persons who are officers of the United States and appointed in the manner prescribed by Article II, section 2, clause 2 of the Constitution, namely, by the President by and with the advice of the Senate, or with Congressional authorization by the President alone, or the courts of law, or the heads of departments.

The bill fails to comply with these constitutional requirements with respect to the following members of the Board:

(a) The eight members appointed by the President pro tempore of the Senate and the Speaker of the House, respectively;

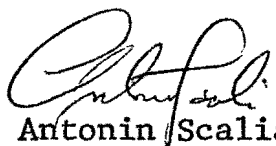
(b) The Secretary of the Smithsonian Institution, who is appointed by the Board of Regents of the Smithsonian Institution (20 U.S.C. 44), which cannot be viewed as the equivalent of a department head within the meaning of Article II; and

(c) The Director of the Center who would be appointed by the Librarian of Congress who similarly does not have the status of a department head within the meaning of Article II of the Constitution.

A similar problem arose in connection with the legislation establishing the Japan-United States Friendship Commission (Public Law 94-118) and in the Arts and Artifacts Indemnity Act (Public Law 94-158). There, as indicated in the President's signing statements, it was possible to obviate the difficulty by considering the members appointed by the President pro tempore and the Speaker to be advisory-nonvoting members. This approach does not appear to be available here, because the improperly appointed members would constitute ten out of seventeen of the Board's membership.

For the above reasons, it is our view that the provisions of this legislation are contrary to the strict provisions of the Constitution. It must be acknowledged, however, that in the area of cultural and educational affairs, the separation of powers may not have been strictly observed. Despite the fact that they do not constitute as drastic a departure from the constitutional requirements as the present bill, those provisions of the Library of Congress Act which authorize the provision of specific services to the public must be considered a technical anomaly. Indeed, it is probably demonstrable that from an early date the primary function of the Library of Congress has been public service rather than Congressional assistance. Similarly, the makeup of the Smithsonian Institution--if that is to be regarded as a Federal agency, a point which is subject to some dispute--contravenes the constitutional text.

Complete acceptance of this historical practice runs the risk of inviting further transfers to the Library of Congress of cultural and educational functions; and perhaps of encouraging more serious encroachments upon Executive prerogatives through the assignment of entirely different functions to the General Accounting Office. Moreover, it appears from our experience with the Japan-United States Friendship Commission and the Arts and Artifacts Indemnity Act, discussed above, that only a Presidential veto directed at this practice will suffice to call the attention of Congress to the problem involved. Given the very nature of all of these cultural and educational proposals, it may be vain to await an occasion for a Presidential veto more propitious than the present. Nonetheless, in light of the historical practice we think the President can responsibly sign the present legislation with expression of his serious reservation concerning the constitutional propriety of placing such functions outside the Executive branch.



Antonin Scalia
Assistant Attorney General
Office of Legal Counsel

STATEMENT BY THE PRESIDENT

I have today signed H. R. 6673, the "American Folklife Preservation Act."

H. R. 6673 establishes in the Library of Congress an American Folklife Center to preserve and present American folklife. The Center is to be directed by a Board of Trustees composed as follows: four members appointed by the President from among Federal officials concerned with folklife; four members appointed each by the President pro tempore of the Senate and the Speaker of the House of Representatives from among private individuals noted for their involvement in folklife; the Librarian of Congress; the Secretary of the Smithsonian; the Chairman of the National Endowments for the Arts and the Humanities and the Director of the Center.

The Center is authorized to enter into contracts for activities including research, scholarship, training, publications, exhibits, workshops and educational projects for classroom and general usage. It will also establish and maintain a national archive and center for American folklife, collect specific types of works for preservation in the archive and loan such works to the public.

I have serious reservations concerning the constitutional propriety of placing the functions to be performed by the Center outside the Executive branch and the assignment of executive duties to officers appointed by Congress. However, given historical practice and custom in the area of cultural and educational affairs and the potential of H. R. 6673 to enrich the cultural life of the nation, I am granting my approval to the measure.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1546

Date: December 29

Time: 1030am

FOR ACTION: Kathy Ryan *KR*
Max Friedersdorf *MF*
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 30

Time: 600pm

SUBJECT:
H.R. 6673 - American Folklife Preservation Act

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



THE LIBRARY OF CONGRESS

WASHINGTON, D. C. 20540

OFFICE OF THE
ASSISTANT LIBRARIAN OF CONGRESS

December 24, 1975

Dear Mr. Frey:

This is in response to your request for our views on the enrolled bill H.R. 6673 to establish an American Folklife Center in the Library of Congress.

The progress of this bill has been followed by the Librarian of Congress and Library staff during the legislative process and many of our recommendations have been incorporated in the bill as finally passed. The creation of a Center for the preservation of American folklife and for research and presentation through cooperative programs is consistent with the interests of the Library of Congress. The proposed Board of Trustees (Section 4) and the cooperation with many other agencies and institutions (Section 5) should assure programs representative of many interests and widely available throughout the Nation.

The Library of Congress supports this legislation and recommends signature by the President.

Sincerely yours,

A handwritten signature in cursive script that reads "Elizabeth Hamer Kegan".

(Mrs.) Elizabeth Hamer Kegan
Assistant Librarian of Congress

Mr. James M. Frey
Assistant Director for
Legislative Reference
Executive Office of the President
Office of Management and Budget
Washington, D. C. 20503



SMITHSONIAN INSTITUTION

Washington, D.C. 20560
U.S.A.

December 24, 1975

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

Thank you for referring to the Smithsonian Institution for comment the enrolled bill H. R. 6673, "To provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes."

The legislation provides for the establishment in the Library of Congress of an American Folklife Center under the direction of a seventeen member Board of Trustees. Four members are to be appointed by the President from among Federal officials concerned with folklife; four each by the Speaker of the House and the President pro tempore of the Senate from among individuals in private life; and there are five statutory members: the Librarian of Congress, the Secretary of the Smithsonian Institution, the Chairmen of the Endowments, and the Director of the Center, who is appointed by the Librarian after consultation with the Board.

The Center has broad authority which includes the ability to enter into contracts; establish a national archive in conjunction with any Federal entity; acquire and loan objects; disseminate exhibitions; and develop programs to preserve American folklife.

The Librarian is vested with conventional administrative powers, and must include in his annual report to Congress on the Library a report on the Center. Appropriations are authorized through fiscal year 1978.

The Smithsonian Institution believes there is a need to coordinate the highly diverse efforts in the study of American folk culture because the field crosses so many disciplines. Within the United States Government there are three principal organizations which presently concern themselves with folklife: the National Endowment for the Arts, which has granting authority to support folklife studies in all these aspects; the Library of Congress, which over the years has developed an excellent archival capability in this field; and the Smithsonian Institution, which has demonstrated its ability over the past ten years to undertake the collections, applied research, and performance functions, and to act as a living laboratory for folklife. Because of the placement and organization of the Folklife Center in the legislation, and the provision for representation of the Endowments, the Library, and the Smithsonian on its Board of Trustees, we believe that the legislation is a useful step in achieving coordination and that its potential for the support of research into and interpretation of American folklife traditions and arts can assist in the enrichment of the cultural life of the Nation.

The Smithsonian Institution respectfully recommends endorsement by the President of H. R. 6673.

Sincerely yours,

S. Dillon Ripley

S. Dillon Ripley
Secretary

including tours,

exh. b. hmo,

NATIONAL
ENDOWMENT
FOR
THE ARTS

WASHINGTON
D.C. 20506



A Federal agency advised by the
National Council on the Arts

December 23, 1975

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, DC 20506

Dear Mr. Frey:

This is in response to your request for our views and recommendations on H.R. 6673, a bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes.

The National Endowment for the Arts strongly supports this legislation. Substantial revision of the earlier versions of the bill has been made. In the present form, it would authorize the establishment in the Library of Congress of an American Folklife Center for the preservation and presentation of American folklife. The Center will operate under the general supervision of the Librarian of Congress. The Board of Trustees will be composed of members appointed by the President, the President pro tempore of the Senate, and the Speaker of the House. Also on the Board ex officio will be the Librarian of Congress, the Secretary of the Smithsonian Institution, the Chairmen of the National Endowment for the Arts and the National Endowment for the Humanities, and the Director of the Center. The Center would carry out a variety of activities involving American folklife, including preservation, loan, dissemination, workshop, festival, and exhibition activities. The Center would not have authority to make grants, but would have contractual authority, which of course the Library of Congress already has.

It should be noted that the granting provisions included in earlier versions of this bill have been removed in this version, after mutual agreement among sponsors of the bill and officials at the Library of Congress that authority for grants more properly resided in the National Endowment for the Arts and the National Endowment for the Humanities. This significant modification removes the objection, previously expressed by the Arts Endowment, that the bill provided for functions to be carried out by the Folklife Center which duplicated those of the Arts Endowment. The Arts Endowment thus regards this bill as complementary to, rather than duplicative of, its own efforts, and welcomes the prospect of cooperation with the Folklife Center.

Another major revision in this bill is the reduction of the authorized funding level. It provides \$133,500 for the remainder of Fiscal 1976 and the Transition Quarter, and modest increments through Fiscal 1978. This is certainly a reasonable level of funding for the purposes set forth in the legislation.

A number of hearings were held by the Congress for this bill in its various forms, and they demonstrated sustained interest and support for the bill in the Congress, among experts in the field of folklore and folk cultural studies, and from the public generally. Now that all the differences among sponsors and involved agencies have been resolved, and a productive and cooperative agency approach to the nation's folk cultural needs has been firmly established, it is an opportune time for implementing the legislation. Indeed, the advent of the Nation's Bicentennial year offers a most propitious moment for signing the legislation, for it is hard to imagine a finer federal gesture to inaugurate the Bicentennial than the signing of a bill addressing itself to the rich variety of our folk cultural heritage.

Mr. James M. Frey

- 3 -

December 23, 1975

The National Endowment for the Arts strongly supports this legislation and recommends approval of H.R. 6673 by the President.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Hanks", with a stylized flourish at the end.

Nancy Hanks
Chairman

NATIONAL ENDOWMENT FOR THE HUMANITIES

WASHINGTON, D.C. 20506



December 23, 1975

Mr. James M. Frey
Assistant Director for Legislative
Reference
Room 7201 New Executive Office
Building
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request of December 22nd for the views of the National Endowment for the Humanities on H.R. 6673 The American Folklife Preservation Act.

This Endowment has no objection to approval of this legislation by the President. However the National Endowment for the Humanities is already authorized to provide support for this area.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Berman".

Ronald Berman
Chairman

U.S. GOVERNMENT PRINTING OFFICE: 1969-0-333-738

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1546

Date: December 29

Time: 1030am

FOR ACTION: Kathy Ryan ✓
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Warren Hendriks

FROM THE STAFF SECRETARY

DUE: Date: December 30

Time: 600pm

SUBJECT:
H.R. 6673 - American Folklife Preservation Act

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

- Recommend Approval -
Kathleen Ryan

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please advise the Staff Secretary immediately.

John F. Kennedy
President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1546

Date: December 29

Time: 1030am

FOR ACTION: Kathy Ryan
Max Friedersdorf
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H.R. 6673 - American Folklife Preservation Act

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- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

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Please return to Judy Johnston, Ground Floor West Wing

*No objection. Draft signing
Statement attached which points
to Constitutional problems raised
by the bill.*

KQ.

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John F. Kennedy
President

STATEMENT BY THE PRESIDENT

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The Center is authorized to enter into contracts for activities including research, scholarship, training, publications, exhibits, workshops and educational projects for classroom and general usage. It will also establish and maintain a national archive and center for American folklife, collect specific types of works for preservation in the archive and loan such works to the public.

I have serious reservations concerning the constitutional propriety of placing the functions to be performed by the Center outside the Executive branch and the assignment of executive duties to officers appointed by Congress. However, given historical practice and custom in the area of cultural and educational affairs and the potential of H. R. 6673 to enrich the cultural life of the nation, I am granting my approval to the measure.

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The Center is authorized to enter into contracts for activities including research, scholarship, training, publications, exhibits, workshops and educational projects for classroom and general usage. It will also establish and maintain a national archive and center for American folklife, collect specific types of works for preservation in the archive and loan such works to the public.

I have serious reservations concerning the constitutional propriety of placing the functions to be performed by the Center outside the Executive branch and the assignment of executive duties to officers appointed by Congress. However, given historical practice and custom in the area of cultural and educational affairs and the potential of H.R. 6673 to enrich the cultural life of the nation, I am granting my approval to the measure.

JP

OK
OK

STATEMENT BY THE PRESIDENT

I have today signed H. R. 6673, the "American Folklife Preservation Act."

Frey Memo
12/27/75

H. R. 6673 establishes in the Library of Congress an American Folklife Center to preserve and present American folklife. The Center is to be directed by a Board of Trustees composed as follows: four members appointed by the President from among Federal officials concerned with folklife; four members appointed each by the President pro tempore of the Senate and the Speaker of the House of Representatives from among private individuals noted for their involvement in folklife; the Librarian of Congress; the Secretary of the Smithsonian; the Chairman of the National Endowments for the Arts and the Humanities and the Director of the Center.

p. 1

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p. 2

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G.S.O. Style
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PROVIDING FOR THE ESTABLISHMENT OF AN AMERICAN FOLKLIFE CENTER IN THE LIBRARY OF CONGRESS, AND FOR OTHER PURPOSES

JUNE 10, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. NEDZI, from the Committee on House Administration, submitted the following

REPORT

[To accompany H.R. 6673]

The Committee on House Administration, to whom was referred the bill (H.R. 6673) having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

On May 14, 1975, a quorum being present, the committee, by a vote of 18 to 5, adopted a motion to report H.R. 6673, amended.

AMENDMENTS

On page 4, line 18, strike the word "eight" and insert in lieu thereof the word "four" and strike the word "Librarian".

On page 4, line 19, strike the words "of Congress" and insert in lieu thereof the words "President pro tempore of the Senate".

On page 4, line 23, strike the word "arts" and insert in lieu thereof "arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;"

On page 5, line 8, strike the word "Librarian" and insert in lieu thereof "President pro tempore of the Senate and the Speaker of the House of Representatives".

On page 5, line 11, following the word "Board.", add the following: "Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party."

On page 5, line 22, following the word "as", insert the word "jointly".

On page 5, lines 22 and 23, strike the word "Librarian." and add the following: "President pro tempore of the Senate and the Speaker of the House of Representatives,".

PURPOSE

H.R. 6673 would establish in the Library of Congress an American Folklife Center, under the direction of a Board of Trustees. The Board would be composed as follows: Four members appointed by the President from among officials of Federal agencies concerned with some aspect of folklife; four members appointed by the President pro tempore of the Senate and four members appointed by the Speaker of the House of Representatives from among individuals in private life who are recognized for their scholarship, experience, creativity, or interest in folklife; the Librarian of Congress; the Secretary of the Smithsonian Institution; the Chairman of the National Endowment for the Arts; the Chairman of the National Endowment for the Humanities; and the Director of the Center. The term of office of each appointed member would be 6 years, except that the terms of the original appointees would be staggered. In making appointments, the President Pro Tempore and the Speaker would be required to strive for appropriate regional balance, as well as to insure that no more than three of each of their four appointees would be from the same political party.

For the purposes of the bill, the term "American Folklife" is defined as follows:

"American Folklife" means the traditional customs, beliefs, dances, songs, tales, sayings, art crafts, and other expressions of the spirit common to a group of people within any area of the United States, and includes music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other groupings of American people.

The Center would be authorized to enter into contracts, make grants and loans, and award scholarships to individuals and groups for activities including research, scholarship, training, exhibits, performances, and workshops; and the purchase, production, and support of educational projects for classroom and general usage. Additionally, the Center would be directed to establish and maintain in conjunction with any Federal agency a national archive and center for American folklife. Materials for this archive would be purchased, procured or otherwise received, and could be loaned, exhibited or displayed in accordance with Library of Congress procedures.

Grants made pursuant to the bill would be limited to 2 years' duration, except that with the concurrence of at least two-thirds of the Board, such term could be extended to not more than 5 years. No grants, loans, or other assistance could be used for purposes of land acquisition, construction, building acquisition, or acquisition of major equipment. No former Federal employee would be eligible to serve as a trustee of the Center or to receive any grants or other assistance for a period of 2 years following the termination of such employment.

The Librarian, and the Board, would appoint the Director and Deputy Director of the Center. The basic pay of these individuals would not exceed, respectively, GS-18 and GS-16 of the General Schedule.

In carrying out the functions of the Center, the Librarian would be authorized to: Promulgate regulations; accept donations of money and other property, and use, sell, or otherwise dispose thereof; appoint such personnel as may be necessary; obtain the services of experts and consultants at rates not to exceed \$100 per diem; accept and utilize the services of voluntary personnel; enter into contracts, grants or other arrangements; and make advances and other payments with the approval of the Board.

The Center and its Director would be required to submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual summary of its operations. That submission shall include a detailed accounting of all public and private funds received and expended, and such other matter deemed appropriate by the Center.

The bill would authorize to be appropriated to the Center to carry out the provisions therein: \$167,750 for the fiscal year ending September 30, 1976; \$710,000 for the fiscal year ending September 30, 1977; \$1,716,000 for the fiscal year ending September 30, 1978. These amounts include grant-making authority and were recommended by the Librarian who indicated that these funding levels were minimums necessary to establish and operate the Center.

BACKGROUND

Measures to increase the role of the Federal Government in preserving folklife have been pending in the Congress for more than 5 years. Although the initial impetus came from individuals and groups concerned with the cultures of the Appalachian region, and native Americans. They were soon joined by proponents of the so-called "ethnic," black, and Hispanic cultures as well as by individuals and groups from every section of the country. Whatever their backgrounds or areas of interest, they are agreed that Americans' cultural diversity is a valuable national asset and is well worth preserving in the face of increasing homogenization of American life. They have called for an intensified Federal commitment in this area. This point of view has grown to the extent that in the 94th Congress over 230 Members of the House and more than half the Senate have cosponsored bills similar to H.R. 6673.

HEARINGS

On May 9 and 10, 1974, the Subcommittee on Library and Memorials held comprehensive hearings on legislation to establish an American Folklife Center in the Library of Congress. Testimony was taken from the Librarian of Congress, the Smithsonian Institution, the National Endowment for the Arts, and several other witnesses including distinguished scholars and representatives of folk and ethnic organizations. A consensus was reached that the Federal Government

has an appropriate role in the fostering and preservation of folk and ethnic traditions, and that the Federal Government's effort thus far in this regard has been clearly inadequate.

COMMITTEE ACTION

The Committee on House Administration is agreed that a serious Federal effort should be made to make possible the preservation of the folk and ethnic cultures of Americans. The committee is aware that the National Endowments' enabling legislation permits activities in the folklife area; nonetheless, the committee has opted for a separate Folklife Center in the Library of Congress for these reasons: (1) To date, the Endowments have shown little inclination to make a genuine commitment in this area, apparently preferring instead to focus on "high culture." The Endowments have acknowledged that only a tiny fraction of total grant outlays have gone to the folk and ethnic areas, and admit that their efforts have been "inadequate." The committee agrees; (2) the nature of folk and ethnic cultural preservation efforts requires an archival function as well as a grant-making capability. The Endowments are not authorized to conduct archival activities; (3) given the relatively embryonic nature of folk and ethnic preservation programs, a Center should itself have the ability to produce and develop related activities for which a capability does not now exist in the private sector. The Endowments regard their mission as grant-making only and reject an operative role in programs; (4) a separate Center could become a focal point for Federal efforts and for private participation in this area.

The Library of Congress is an ideal place in which to locate this Center. The Library's Archive of Folk Song, established in 1928, has one of the most extensive collections of American folk music in the United States. In addition, large collections of other relevant folklife materials are housed by various divisions of the Library in the form of manuscripts, photographs, motion pictures, and other materials. The Library also has an extensive collection of published works relating to folklife.

The committee endorses the limitation on authorizations in H.R. 6673 in lieu of an open-ended provision. In authorizing funding of the Center through 1978, the committee believes that the Center will have sufficient time to establish itself as a viable force in the folklife area. At the end of the authorization period, the Congress would have the opportunity to evaluate the Center's performance and determine whether institutional adjustments are in order. The bill's authorization of minimum operating expenses will insure optimum organizational flexibility.

COST OF H. R. 6673

H.R. 6673 authorizes appropriations to the Center in the following amounts: \$167,750 for fiscal year 1976; \$710,000 for fiscal year 1977; \$1,716,000 for fiscal year 1978.

AMENDMENTS TO H.R. 6673

The committee agreed to amend the proposal in order to provide that the eight members of the Board of Trustees who are to come from

the private sector, would be appointed in such a manner that the President Pro Tempore of the Senate would appoint four members, and the Speaker of the House would appoint four members. The proposal was also amended to provide that as to each of these appointments by the President Pro Tempore of the Senate and Speaker of the House, that no more than three of the four appointees could represent the same political party. The remaining amendments are conforming in nature.

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PROVIDING FOR THE ESTABLISHMENT OF AN AMERICAN FOLKLIFE CENTER IN THE LIBRARY OF CONGRESS, AND FOR OTHER PURPOSES

DECEMBER 10, 1975.—Ordered to be printed

Mr. CANNON, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany H.R. 6673]

The Committee on Rules and Administration, to which was referred the bill (H.R. 6673) to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

H.R. 6673 would establish within the Library of Congress an American Folklife Center to develop, promote, and implement a program of support for American folklife.

BACKGROUND

Measures to increase the role of the Federal Government in preserving folklife have been pending in the Congress for more than 6 years. Although the initial impetus came from individuals and groups concerned with the cultures of the Appalachian regions, and native Americans, they were soon joined by proponents of the so-called "ethnic," black, and Hispanic cultures as well as by individuals and groups from every section of the country.

Whatever their background or areas of interest, they are all agreed that Americans' cultural diversity is a valuable national asset and is well worth preserving in the face of increasing homogenization of American life. They have called for an intensified Federal commitment in this area. This point of view has grown to the extent that in the 94th Congress more than 230 Members of the House and more than half the Senate have cosponsored bills similar to H.R. 6673, reflecting growing concern and sentiment in succeeding Congresses for Federal support for American folklife.

H.R. 6673, which passed the House September 8, 1975, has been substituted for S. 1618 for Senate consideration. Both bills are similar and seek to achieve the same purposes.

Bills concerning Federal support for American folklife have been introduced in the Senate in the past four Congresses. Three hearings have been held on Senate bills, including an initial joint hearing on July 2, 1971, a field hearing on December 4, 1971 at the Grand Old Opry in Nashville, Tennessee, and the last on May 8, 1974. In addition, there were hearings on a House bill May 9 and 10, 1974. House bills have been introduced in the past two Congresses, including H.R. 6673, the one now before the Senate. A report, S. Rept. 91-1274, was issued by the Committee on Labor and Public Welfare on October 6, 1970, to accompany S. 1591, the first Senate bill concerned with American folklife.

The most recent Senate hearing held on May 8, 1974, to establish an American Folklife Center in the Library of Congress was before the Subcommittee on the Library of the Committee on Rules and Administration, when a number of witnesses were heard and letters and statements in support of the measure were submitted for the record. Those in support included several U.S. Senators, the Librarian of Congress, the National Endowment of the Arts, the National Endowment of the Humanities, the Secretary of the Smithsonian, folksingers, and academic leaders in the field.

There was a consensus that the Federal Government has an appropriate role in the fostering and preservation of folk and ethnic traditions and that the Federal Government's efforts thus far in this regard have not been enough.

The Library of Congress is considered an ideal place in which to locate the Center. The Library's Archive of Folk Song, established in 1928, has one of the most extensive collections of American folk music in the United States. In addition, large collections of other relevant folklife materials are housed in various divisions of the Library in the form of manuscripts, photographs, motion pictures, and other materials. The Library also has an extensive collection of published works relating to folklife.

There has been and is concern that the two endowments, particularly the Arts, have not taken sufficient initiative in American folklife and that, in fact, too little has been done up to this time. It is hoped that belated and greater effort will be exerted in this regard. The Congress has an oversight obligation to make sure more is done by the endowments.

A similar concern was expressed recently in Senate Report No. 94-462 by Senator Robert C. Byrd, a member of the Committee on Rules and Administration, who was reporting from the Committee on Appropriations on the Department of the Interior and Related Agencies Appropriation Bill, 1976, as follows:

"In passing the National Foundation on the Arts and Humanities Act of 1965, the Congress intended that the two granting Endowments provided by the Act support the study and presentation of folk culture. The National Endowment for the Arts established its formal Folk Arts programs only as recently as 1975. The National Endowment for the Humanities, although granting some funds over the years to folkloric study, has not yet seen fit to add trained folklorists to its staff

or to initiate a formal folklore program. In short, the Committee finds the Endowments' support for American folklife has been woefully inadequate.

"The Committee believes the endowments should see the Bicentennial year as an opportunity to expand dramatically their commitment to the simple beauty and natural expression of tens of millions of citizens to whom the avenues of high culture are not open. The mandate which stands behind the National Foundation for the Arts and Humanities is a charge that the culture of *all* Americans is intrinsically worthy of support.

"Congress expects the administrators of arts and humanities policy to act responsibly and imaginatively in the area of folk culture. The two endowments, in particular, should expand and improve their programs in support of American folk culture."

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This bill is cited as the "American Folklife Preservation Act". It would provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes.

Section 2. Declaration of Findings and Purposes

The Congress believes that the diversity of culture and the sense of individuality and identity among the American people have contributed toward the building of our nation, rather than requiring the sacrifice of cultural differences, and that all of this rich diversity of American folklife in turn has had a great influence on us as a people.

Therefore, it is believed that it is appropriate for the Federal Government to encourage and support American folklife, even though it may primarily be a matter for private and local initiative, and that the general welfare of the Nation is enhanced by the preservation, support, revitalization, and dissemination of American folklife traditions and arts.

It is the purpose of this Act to establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

Section 3. Definitions

The term "American folklife" means the traditional expressive culture shared within the various groups in the United States—familial, ethnic, occupational, religious, regional—and that such expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft—and that these expressions are mainly learned orally by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction.

The term "Group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States.

The term "State" includes, in addition to the states, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands.

The term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

Section 4. Establishment of Center

Such a Center would be under the direction of a Board of Trustees, whose members would be appointed to terms of six years each, with the exception that the first appointees to the Board would serve staggered terms.

The Board would be comprised of seventeen members. Four would be named by the President from officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts, and four each would be named by the President pro tempore of the Senate and the Speaker of the House of Representatives from among private individuals recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts. The Board members would also include the Librarian of Congress, the Secretary of the Smithsonian Institution, the Chairmen of the National Endowments for the Arts and the Humanities, and the Director of the Center.

Appointments by the President pro tempore of the Senate and the Speaker of the House of Representatives would be such that the individuals would collectively provide appropriate regional balance on the Board. Not more than three of any of the members appointed by either one of them could be affiliated with the same political party.

Board members not regularly full-time Federal employes would be entitled to receive compensation at rates fixed by the Librarian not to exceed \$100 per diem, along with travel expenses.

The Librarian of Congress would call the first meeting of the board, which in turn would elect a chairman and a vice chairman for two year terms, except for a initial one year term.

A majority of Board members would constitute a quorum.

A director of the Center, who would be paid at a rate not to exceed GS-18, would be appointed by the Librarian after consultation with the Board. A deputy director to serve at a rate not to exceed GS-16 would be named by the Librarian upon recommendation of the director.

The director would be the chief executive officer of the Center, subject to the direction of the Board and the general supervision of the Librarian. The deputy director would perform such functions as prescribed by the director with the approval of the Librarian, and in the absence of the director would serve as acting director.

Section 5. Functions of the Center

The Center under the Librarian would have a wide variety of activities and functions, as follows:

1. Enter into contracts with individuals and groups.
2. Establish and maintain in conjunction with any Federal department, agency, or institution, a national archive and center for American folklife.

3. Receive, buy, and collect for preservation or retention creative works, exhibitions, presentations, objects, materials, artifacts, manuscripts, publications, and audio and visual records which represent or illustrate some aspect of American folklife.

4. Loan and make available through the Library of Congress any item in the archive to any individual or group.

5. Disseminate to local, regional, State, or National audiences through contracts or other arrangements any exhibition, display or presentation with public, nonprofit and private radio and television broadcasters, museums, educational institutions, and individuals and organizations, including corporations, as deemed appropriate by the Board.

6. Loan, lease, and make available to public, private and nonprofit educational institutions and State arts councils such exhibitions, programs, exhibits, and materials designed for classroom use on folklife.

7. Develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

In entering into contracts, the Librarian could:

- A. Initiate and promote research, scholarship, and training in American folklife.

- B. Initiate and promote productions of live performances, festivals, exhibits, and workshops.

- C. Purchase or produce or help support exhibitions, displays, publications, and presentations, including still and movie films as well as recordings representing folklife.

- D. Purchase and produce exhibitions, projects, presentations, and materials specifically designed for classroom use in illustrating folklife.

Section 6. Limitations on Contracts

No payments for research or training could be authorized in excess of 2 years, except with the concurrence of at least two-thirds of the Board members, and then only for a period not to exceed 5 years.

The Act would not cover cost of land acquisition, construction, building acquisitions, or acquisitions of major equipment.

No individual formerly in the employ of the Federal Government would be eligible to receive assistance or to serve as a trustee in the two year period following termination of such employment.

Section 7. Administrative Provisions

The Librarian would be authorized in carrying out the Center's function to:

1. Prescribe such regulations he deems necessary.
2. Receive money and other property donated or bequeathed, and to use, sell, or otherwise dispose of such property.
3. Receive in the discretion of the Board money and property given to the Center with restrictions.
4. Fix pay rates for Center personnel.
5. Hire experts and consultants.
6. Utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem.
7. Enter into contracts, and such contracts could, with the concurrence of two-thirds of the Board members, be entered into without

performance or other bonds and in conformity with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

8. Make advances and other payments which the Board deems necessary under this Act in conformity with the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

The director would be required to submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of the Center, including a detailed statement of all private and public funds received and expended, and such recommendations as the Center thinks appropriate.

Section 8. Authorization

Proposed for the first 3 years are \$133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976; \$295,000 for the fiscal year 1977, and \$349,000 for the fiscal year 1978. (See copy of breakdown of estimated budgets for those years for establishment and operation of the Center attached to this report.)

AMENDMENTS RECOMMENDED BY THE COMMITTEE ON RULES AND ADMINISTRATION

Two major amendments proposed to H.R. 6673, both related, concern divorcing authority from the Center and its director in making grants and loans and awarding scholarships for folklife, and, at the same time, decreasing drastically the proposed appropriations for three years for the Center because of the change.

These amendments in no way otherwise restrict the Center as such. What it does is eliminate the establishment of expensive procedures within the Center to supervise, oversee, and award grants, loans, and scholarships.

It is believed there are more than sufficient ways and means and money available through the National Endowment for the Arts for the purposes of grants, loans, and scholarships in the folklife field. The Arts Endowment has supported the concept of a Folklife Center, but been opposed to any grant authority as being duplicative of the work of the Endowment.

At the time of the Senate hearing on May 8, 1974, on folklife legislation, Dr. L. Quincy Mumford, then Librarian of Congress, said the Library while supporting the establishment of a Folklife Center at the Library was opposed to having authority to make grants as it felt such activity was better located in the National Endowment for the Arts.

It was brought out at the hearing that giving the Library such authority would duplicate the work of the Arts Endowment, and would be unnecessarily costly.

Areas of H.R. 6673 to be amended to strike out grant, loan and scholarship authority are Section 5 (1) and (5); Section 6(c) and Section 7(7), while Section 8 is concerned with amending of the appropriation.

The definition of "American folklife" as contained in the Senate version, S. 1618, would be substituted for that contained in H.R. 6673. This change would be in Section 3(1).

So that there would be a more direct line of authority for the Librarian of Congress over the Center and its director, substitute

language has been added in several places. It is believed that the Center, while maintaining its own identity, should at the same time as part of the Library be directly responsible to the Librarian through its director and that the Librarian should have a stronger role.

In this regard, amendments appear in Section 4(g) (1), at the beginning of Section 5, at the end of Section 5 and in Section 7(b).

Several other amendments of a minor nature have to do with the expansion of activities and programs of the Center with the additions of "literature" in Section 3(1); "publications" in Section 5(1)(C); "manuscripts and publications" in Section 5(3); "State arts councils" in Section 5(6), and a technical amendment for the hearing of experts and consultants in accordance with provisions of section 3109 of title 5, United States Code, in Section 7(5).

A description of the specific amendments proposed by the Committee on Rules and Administration, which have been generally discussed above, is as follows:

In Section 3(1) strike the whole paragraph which reads as follows:

(1) the term "American folklife" means the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States, and includes music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other grouping of American people;

and substitute the following:

(1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry handicraft; these expressions are mainly learned orally by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction.

In Section 4(g) (1) strike the whole sentence, as follows:

He shall carry out the programs of the Center subject to the supervision and direction of the Board, and shall carry out such functions as the Board may delegate to him consistent with the provisions of this Act.

and substitute the following:

Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

Section 5 strike the words "The Center and Its Director are" and substitute the following: "(a) The Librarian is"

Section 5(1) after the word "contracts" strike words "with, make grants and loans to, and award scholarships to" and insert instead word "with"

Sections 5(1)(C) after word "display" insert word "publications,"

Section 5(3) after word "artifacts," insert words "manuscripts, publications,"

Section 5(5) after word "including" strike words "contracts, loans, and grants" and insert instead word "contracts"

Section 5(6) after word "institutions" insert the following: "and State arts councils, established pursuant to the National Foundation on the Arts and the Humanities Act of 1965,"

Section 5 after paragraph (7) insert by itself "(b) The Librarian shall carry out his functions under this Act through the Center."

Section 6 in heading "LIMITATIONS ON GRANTS" strike word "GRANTS" and substitute word "CONTRACTS"

Section 6(c) after word "any" strike words "grant or other"

Section 7(5) after word "States" strike words "Code, at rates for individuals not to exceed \$100 per diem" and substitute word "Code"

Section 7(7) after words "enter into" strike words "contracts, grants, or other arrangements, or modifications thereof, to" and substitute words "contracts to"

Section 7 after "(b)" strike words "The Center and its Director" and substitute words "The Director"

Section 7(b) after words "annual report of" strike word "its" and substitute word "the"

Section 7(b) after word "operations" insert words "of the Center"

Section 8 after word "Act" strike figures and words as follows:

\$167,730 for the fiscal year ending September 30, 1976;
\$710,000 for the fiscal year ending September 30, 1977; and
\$1,716,000 for the fiscal year ending September 30, 1978.

And substitute the following:

\$133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976; \$295,000 for the fiscal year 1977, and \$349,000 for the fiscal year 1978.

COST ESTIMATE

If amended in the Senate, H.R. 6673 would authorize appropriations to the Center in the following amounts: Fiscal 1976 and 1976 Transition (nine months), \$133,500; Fiscal 1977, \$295,000; and Fiscal 1978, \$349,000.

The amount proposed in the Senate amendment for the three year program is vastly lower than in the original House version. This is because another amendment is proposed elsewhere in the bill which would eliminate authority to give grants, loans and scholarships.

As passed by the House, the figures for the three years respectively would have been \$167,750; \$710,000 and \$1,716,000.

In addition, although not included in this bill, it is estimated that additional funding in the future for the Center would be: Fiscal 1979, \$400,000; fiscal 1980, \$420,000, and fiscal 1981, \$445,000.

The figures for the 6-year period are those furnished by the Library of Congress as to estimated needs. Copies of these estimates from the Library are attachments to this report.

The letter referred to above, addressed to Senator Howard W. Cannon, Chairman, Committee on Rules and Administration, by Daniel J. Boorstin, Librarian of Congress, is as follows:

LIBRARIAN OF CONGRESS,
Washington, D.C., November 26, 1975.

HON. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration,
U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: In response to a request from your Committee, I am enclosing revised figures for funding for an American Folklife Center in the Library of Congress. These figures are based on the assumption that the Library of Congress would not handle the grant-making functions as authorized in H.R. 6673, which was approved by the U.S. House of Representatives. Inflationary factors, including the government pay raises and increased personnel benefits, have been built into the funding levels.

If we can provide your Committee with any additional information, please let us know.

Sincerely yours,

DANIEL J. BOORSTIN,
Librarian of Congress.

AMERICAN FOLKLIFE CENTER

Proposed budget¹—without grant authority—Nov. 26, 1975

Fiscal 1976 and 1976 transition (9 months)	
Salaries and benefits	\$72,000
Travel	7,500
Communications, postage, etc.	2,250
Printing and publications	3,750
Other contractual services	37,500
Supplies	1,500
Equipment	9,000
Total	<u>133,500</u>
Fiscal 1977	
Salaries and benefits	191,000
Travel	6,000
Communications, postage, etc.	3,000
Printing and publications	12,000
Other contractual services	75,000
Supplies	3,000
Equipment	5,000
Total	<u>295,500</u>
Fiscal 1978	
Salaries and benefits	206,000
Travel	7,000
Communications, postage, etc.	3,000
Printing and publications	25,000
Other contractual services	100,000
Supplies	3,000
Equipment	5,000
Total	<u>349,000</u>

¹ These figures reflect current salary rates and a rate of 9½ percent for personnel benefits, as well as additional salary increases of 5 percent in October 1976 and October 1977.

AMERICAN FOLKLIFE CENTER

Projected budgets¹—without grant authority—Dec. 5, 1975

Fiscal 1979	
Salaries and benefits.....	\$235,000
Travel	7,000
Communications, postage, etc.....	3,000
Printing and publications.....	30,000
Other contractual services.....	100,000
Supplies	3,000
Equipment	2,000
Total	400,000
Fiscal 1980	
Salaries and benefits.....	270,000
Travel	7,000
Communications, postage, etc.....	3,000
Printing and publications.....	35,000
Other contractual services.....	100,000
Supplies	3,000
Equipment	2,000
Total	420,000
Fiscal 1981	
Salaries and benefits.....	285,000
Travel	7,000
Communications, postage, etc.....	3,000
Printing and publications.....	35,000
Other contractual services.....	110,000
Supplies	3,000
Equipment	2,000
Total	445,000

¹ These figures reflect current rates for salaries and personnel benefits, as well as additional salary increases of 5 percent each fiscal year.

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,
one thousand nine hundred and seventy-five*

An Act

To provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "American Folklife Preservation Act".

DECLARATION OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares—

(1) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(2) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(3) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(4) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs, and values of the American people in both rural and urban areas;

(5) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government; and

(6) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts.

(b) It is therefore the purpose of this Act to establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "American folklife" means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

(2) the term "Board" means the Board of Trustees of the Center;

(3) the term "Center" means the American Folklife Center established under this Act;

(4) the term "group" includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(5) the term "Librarian" means the Librarian of Congress;

(6) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(7) the term "workshop" means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

ESTABLISHMENT OF CENTER

SEC. 4. (a) There is hereby established in the Library of Congress an American Folklife Center.

(b) The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows—

(1) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts;

(2) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

(3) the Librarian of Congress;

(4) the Secretary of the Smithsonian Institution;

(5) the Chairman of the National Endowment for the Arts;

(6) the Chairman of the National Endowment for the Humanities; and

(7) the Director of the Center.

In making appointments from private life under clause 2, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who collectively will provide appropriate regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.

(c) The term of office of each appointed member of the Board shall be six years; except that (1) (A) the members first appointed under clause (1) of subsection (b) shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) shall serve as jointly designated by the President pro tempore of the Senate and the Speaker of the House of Representatives, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term.

(d) Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Center, to receive compensation at rates fixed by the Librarian, but not

exceeding \$100 per diem, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(e) (1) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurring in the chairmanship or vice-chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(2) A majority of the members of the Board shall constitute a quorum.

(f) After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate not to exceed GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS-16 of the General Schedule under section 5332 of such title.

(g) (1) The Director shall be the chief executive officer of the Center. Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

(2) The Deputy Director shall perform such functions as the Director, with the approval of the Librarian, may prescribe, and shall serve as Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

FUNCTIONS OF THE CENTER

SEC. 5. (a) The Librarian is authorized to—

(1) enter into, in conformity with Federal procurement statutes and regulations, contracts with individuals and groups for programs for the—

(A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folklife;

(B) initiation, promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

(C) purchase, receipt, production, arrangement for, and support of the production of exhibitions, displays, publications, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

(D) purchase, production, arrangement for, and support of the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife;

(2) establish and maintain in conjunction with any Federal department, agency, or institution a national archive and center for American folklife;

(3) procure, receive, purchase, and collect for preservation or retention in an appropriate archive creative works, exhibitions, presentations, objects, materials, artifacts, manuscripts, publications, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(4) loan, or otherwise make available, through Library of Congress procedures, any item in the archive established under this Act to any individual or group;

(5) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, State, or National audiences any exhibition, display, or presentation referred to in clause (3) of this section or any item in the archive established pursuant to clause (2) of this section, by making appropriate arrangements, including contracts with public, nonprofit, and private radio and television broadcasters, museums, educational institutions, and such other individuals and organizations, including corporations, as the Board deems appropriate;

(6) loan, lease, or otherwise make available to public, private, and nonprofit educational institutions, and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965, such exhibitions, programs, presentations, and material developed pursuant to clause (1) (D) of this subsection as the Board deems appropriate; and

(7) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

(b) The Librarian shall carry out his functions under this Act through the Center.

LIMITATIONS ON CONTRACTS

SEC. 6. (a) No payment shall be made pursuant to this Act to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Center such research or training may be carried out over a period of not to exceed five years.

(b) Assistance pursuant to this Act shall not cover the cost of land acquisition, construction, building acquisitions, or acquisition of major equipment.

(c) No individual formerly in the employment of the Federal Government shall be eligible to receive any assistance pursuant to this Act, or to serve as a trustee of the Center in the two-year period following the termination of such employment.

ADMINISTRATIVE PROVISIONS

SEC. 7. (a) In addition to any authority vested in it by other provisions of this Act, the Librarian of Congress, in carrying out the Center's functions, is authorized to—

- (1) prescribe such regulations as he deems necessary;
- (2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be for the purposes of the Center and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions, without reference to Federal property disposal statutes;
- (3) in the discretion of the Board of Trustees, receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money and other property donated, bequeathed, or devised to the Center with a condition or restriction, including a condition that the Center use other funds of the Center for the purpose of the gift;
- (4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of the Act in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Librarian of Congress may appoint and fix the compensation of a reasonable number of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center;
- (5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;
- (6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;
- (7) enter into contracts to carry out the provisions of the Act, and such contracts may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and in conformity with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); and
- (8) make advances, progress, and other payments which the Board deems necessary under this Act in conformity with the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

H. R. 6673—6

(b) The Director shall submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of the operations of the Center under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Center deems appropriate.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated to the Center to carry out the provisions of this Act \$133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, \$295,000 for the fiscal year 1977, and \$349,000 for the fiscal year 1978.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

JANUARY 3, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed H.R. 6673, the "American Folklife Preservation Act."

H.R. 6673 establishes in the Library of Congress an American Folklife Center to preserve and present American folklife. The Center is to be directed by a Board of Trustees composed as follows: four members appointed by the President from among Federal officials concerned with folklife; four members appointed each by the President pro tempore of the Senate and the Speaker of the House of Representatives from among private individuals noted for their involvement in folklife; the Librarian of Congress; the Secretary of the Smithsonian; the Chairmen of the National Endowments for the Arts and the Humanities and the Director of the Center.

The Center is authorized to enter into contracts for activities including research, scholarship, training, publications, exhibits, workshops and educational projects for classroom and general usage. It will also establish and maintain a national archive and center for American folklife, collect specific types of works for preservation in the archive and loan such works to the public.

I have serious reservations concerning the constitutional propriety of placing the functions to be performed by the Center outside the Executive branch and the assignment of executive duties to officers appointed by Congress. However, given historical practice and custom in the area of cultural and educational affairs and the potential of H.R. 6673 to enrich the cultural life of the nation, I am granting my approval to the measure.

#

December 22, 1975

Dear Mr. Director:

The following bills were received at the White House on December 22nd:

✓ H.J. Res. 749 ✓	✓ H.R. 8304 ✓	✓ H.R. 11184 ✓
✓ H.R. 4016 ✓	✓ H.R. 9968 ✓	✓ S.J. Res. 157 ✓
✓ H.R. 4287 ✓	✓ H.R. 10035 ✓	✓ S. 95 ✓
✓ H.R. 4573 ✓	✓ H.R. 10284 ✓	✓ S. 322 ✓
✓ H.R. 5900 ✓	✓ H.R. 10355 ✓	✓ S. 1469 ✓
✓ H.R. 6673 ✓	✓ H.R. 10727 ✓	✓ S. 2327 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.