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**REPORT ON LEGISLATION BY THE  
ENTERTAINMENT LAW COMMITTEE**

**H.R. 7806  
S. 4258**

**Rep. Welch  
Sen. Cornyn**

AN ACT to establish a grant program for small live venue operators and talent representatives.

**Save Our Stages (SOS) Act / Section 619 of the Heroes Act**

**THIS LEGISLATION IS APPROVED**

**I. SUMMARY OF THE PROPOSED LEGISLATION**

The Save Our Stages Act (“SOS” Act; H.R. 7806/S.4258), which has been incorporated into the Heroes Act (H.R. 8406) at Section 619, Grants for Independent Live Venue Operators, would provide federal grants to eligible live venue operators, producers, promoters, and talent representatives to mitigate the financial impact of COVID-19 on their operations. The legislation would appropriate \$10 billion for such grants that grantees may use to cover payroll costs and payments to independent contractors, rent, utilities, mortgage or other debt interest payments, personal protective equipment, principal on outstanding loans, and other ordinary and necessary business expenses. Grants would be limited to the lesser of \$12 million, 45% of the grantee’s gross revenue in 2019 or, if the grantee began operations in 2019, the average monthly gross revenue multiplied by six.

The New York City Bar Association’s Entertainment Law Committee supports this legislation because live performance venues are a vital part of the American cultural experience, provide thousands of jobs to artists and other workers, and fuel the economy. Live performance venues are among the hardest hit industries by COVID-19, and because many cannot reopen, a grant program is necessary to prevent Americans from losing them forever. Other world leaders have provided significant funding to performance venues because they recognize how important they are to social cohesion, their economies, and to their stature in the world.

## II. REASONS FOR APPROVAL

### A. Live performance venues are a vital part of the American cultural experience and they contribute revenue to the American economy.

#### 1. *Live performance venues are important to every state in the United States; they define our individual identities as states and the American cultural experience as a whole.*

Live venues are important to every state in the nation. Kentucky would not be Kentucky without its bluegrass. And without venues to experience bluegrass live, like Renfro Valley Entertainment Center and the Kentucky Opry at the Mountain Arts Center, a vital piece of Kentucky’s vibrant heritage would be lost. The same is true for Branson, Missouri—which has been dubbed the “live music capital of the entire universe”<sup>1</sup>—Louisiana and its Cajun and zydeco music halls, Southern Appalachia and its square dancing venues, and Illinois and its blues clubs. And live venues are especially critical to New York City’s cultural identity—they bring joy to millions of visitors from around the country and world who experience our spectacular theater, dance, music, comedy, and other types of performance.<sup>2</sup>

Live performance venues, whether they are large non-profit performing arts centers, mid-sized commercial venues, or grassroots neighborhood clubs, are important to social cohesion and a sense of community.<sup>3</sup> Participation in the performing arts as an audience or performer supports mental and physical health<sup>4</sup> and promotes a reflective, imaginative, and engaged citizenry.<sup>5</sup> And small independent venues provide the platform for the development of new musicians, comedians,

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<sup>1</sup> Official Tourism Website for Branson, Missouri, History of Tourism in Branson, <https://www.explorebranson.com/blog/history-tourism-branson-0#1990>. Over nine million tourists visit Branson each year, many to attend live performances at dozens of venues like the Ernie Biggs Dueling Piano Bar and Dolly Parton’s Stampede. (All links last visited October 8, 2020, unless otherwise noted.)

<sup>2</sup> New York City has over 220 Broadway, Off-Broadway, and Off-Off Broadway theaters and hundreds of other venues where one can see comedy, music, world-class dance, and a host of other types of performances. *E.g.*, N.Y.C. MAYOR’S OFFICE OF MEDIA AND ENTERTAINMENT, ALL NEW YORK’S A STAGE: NEW YORK CITY SMALL THEATER INDUSTRY CULTURAL AND ECONOMIC IMPACT STUDY (2019), <https://www1.nyc.gov/assets/mome/pdf/mome-small-theater-study-2019.pdf>; N.Y.C. MAYOR’S OFFICE OF MEDIA AND ENTERTAINMENT, ECONOMIC TRENDS, IMPACTS, AND OPPORTUNITIES (2017), [https://www1.nyc.gov/assets/mome/pdf/MOME\\_Music\\_Report\\_2017\\_DIGITAL.pdf](https://www1.nyc.gov/assets/mome/pdf/MOME_Music_Report_2017_DIGITAL.pdf).

<sup>3</sup> *See, e.g.*, MAGDALENA PASIKOWSKA-SCHNASS, EUROPEAN PARLIAMENTARY RESEARCH SERVICE, EUROPEAN PARLIAMENT, EU SUPPORT FOR ARTISTS AND THE CULTURAL AND CREATIVE SECTOR DURING THE CORONAVIRUS CRISIS, PE 649.414 AT 2 (May 2020), [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649414/EPRS\\_BRI\(2020\)649414\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649414/EPRS_BRI(2020)649414_EN.pdf).

<sup>4</sup> *E.g.*, Heather L. Stuckey & Jeremy Nobel, *The Connection Between Art, Healing, and Public Health: A Review of Current Literature*, AM. J. PUBLIC HEALTH 254 (Feb. 2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2804629/pdf/254.pdf>; GEOFFREY CROSSICK & PATRYCJA KASZYNSKA, U.K. ARTS AND HUMANITIES RESEARCH COUNCIL, UNDERSTANDING THE VALUE OF ARTS & CULTURE 8 (2016), <https://ahrc.ukri.org/documents/publications/cultural-value-project-final-report>.

<sup>5</sup> CROSSICK & KASZYNSKA, *supra* note 4.

dancers, spoken word artists, and other performing artists,<sup>6</sup> new works,<sup>7</sup> and the preservation of traditional works.<sup>8</sup>

## **2. *Live performance venues are important sources of revenue and employment in the United States.***

Across the U.S., audiences spent \$26.5 billion on tickets to performing arts events in 2017, including \$17 billion on theatrical (including musical theatre and opera) performance and \$3.7 billion on performances by musical groups (e.g., jazz, rock, and country).<sup>9</sup> Attendance at live performance events results in indirect revenue generation—attendance at a concert or a play is often accompanied by a meal at a restaurant.<sup>10</sup> Tourists who travel to a performing arts festival often stay overnight, resulting in lodging, transportation, and meal expenditures.<sup>11</sup>

Hundreds of thousands of artists earn a living performing in live venues. In 2019, there were 202,000 musicians, 50,000 entertainers and performers, and 23,000 dancers and choreographers in the United States labor force.<sup>12</sup> And thousands of additional individuals are employed in live performance in support roles as stage crew, front-of-house staff, promoters, booking agents, administrators, and related occupations.<sup>13</sup>

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<sup>6</sup> National Independent Venue Association, Artists' Letter to Congress (June 18, 2020), <https://www.nivassoc.org/artists-letter-to-congress>.

<sup>7</sup> Bill Hirschman, *Where Are All the New Plays? Everywhere!*, AMERICAN THEATRE (Sept. 21 2016), <https://www.americatheatre.org/2016/09/21/where-are-all-the-new-plays-the-answer-everywhere>.

<sup>8</sup> See, e.g., CAROLE ROSENSTEIN, HOW CULTURAL HERITAGE ORGANIZATIONS SERVE COMMUNITIES, URBAN INSTITUTE POLICY BRIEF (Oct. 2006) (discussing the importance of cultural heritage organizations, including those that present performing arts programs), <https://www.urban.org/sites/default/files/publication/50646/311376-How-Cultural-Heritage-Organizations-Serve-Communities.PDF>.

<sup>9</sup> Nat'l Endowment for the Arts, *During Economic Highs and Lows, the Arts Are Key Segment of U.S. Economy* (Mar. 17, 2020), <https://www.arts.gov/news/2020/during-economic-highs-and-lows-arts-are-key-segment-us-economy>.

<sup>10</sup> AMERICANS FOR THE ARTS, ARTS & ECONOMIC PROSPERITY V at 14 (2017), [https://www.americansforthearts.org/sites/default/files/aep5/PDF\\_Files/NationalFindings\\_StatisticalReport.pdf](https://www.americansforthearts.org/sites/default/files/aep5/PDF_Files/NationalFindings_StatisticalReport.pdf).

<sup>11</sup> *Id.* at 7.

<sup>12</sup> U.S. Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey* (2019), <https://www.bls.gov/cps/cpsaat11b.htm>. (These statistics do not distinguish between live performers and performers who work primarily in media recording, but there is considerable cross-over between the recording industry and live performance.)

<sup>13</sup> See, e.g., NYC MAYOR'S OFFICE OF MEDIA AND ENTERTAINMENT, ALL NEW YORK'S A STAGE: NEW YORK CITY SMALL THEATER INDUSTRY CULTURAL AND ECONOMIC IMPACT STUDY 50 (2019), <https://www1.nyc.gov/assets/mome/pdf/mome-small-theater-study-2019.pdf>; The Broadway League, Press Release, New Broadway League Website Spotlights Theatrical Careers (Jan. 7. 2020) (during the 2018-2019 season, Broadway theaters supported about 87,000 jobs in New York City), <https://www.broadwayleague.com/press/press-releases/new-broadway-league-website-spotlights-theatrical-careers>.

**B. Live performance venues have been restricted during COVID-19 in most states due to the risk of super-spreader events and they continue to accrue costs such as rent. Without government aid, many may close permanently.**

**1. *Live performance venues are suffering; it is unclear when they will be able to reopen without significant restrictions; and they are closing.***

Live performance venues and their workers are suffering because most have been closed or operating under significant restrictions since March 2020. Between the fine and performing arts, almost 1.4 million jobs and almost \$42.5 billion in sales have been lost from April to July 2020.<sup>14</sup> And many live performance venues have closed permanently due to the pandemic, for example, the Upright Citizens Brigade's New York City locations,<sup>15</sup> U Street Music Hall in Washington, D.C.,<sup>16</sup> the Vaudeville Mews in Des Moines, Iowa,<sup>17</sup> Port City Music Hall in Portland, Maine,<sup>18</sup> and many more.<sup>19</sup>

**2. *The government provided other kinds of aid for businesses generally, but these were insufficient to meet the unique needs of performance venues.***

A special program is needed to support live performance venues because many will not be able to open for many more months and previous government programs did not address their unique needs.

**a. The Paycheck Protection Program**

The Paycheck Protection Program in the CARES Act, Pub. L. No. 113-136, 134 Stat. 281 (2020), was insufficient to cover the needs of many live performance venues because the program was designed for businesses that were able to operate. The law required at least 60% of the proceeds to be used for payroll costs; and only 40% was available for rent.<sup>20</sup> And the formula for

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<sup>14</sup> RICHARD FLORIDA & MICHAEL SEMAN, BROOKINGS INSTITUTION, LOST ART: MEASURING COVID-19'S DEVASTATING IMPACT ON AMERICA'S CREATIVE ECONOMY (Aug. 2020), [https://www.brookings.edu/wp-content/uploads/2020/08/20200810\\_Brookingsmetro\\_Covid19-and-creative-economy\\_Final.pdf](https://www.brookings.edu/wp-content/uploads/2020/08/20200810_Brookingsmetro_Covid19-and-creative-economy_Final.pdf).

<sup>15</sup> Julia Jacobs, *Upright Citizens Brigade to Close Its Permanent Locations in New York*, N.Y. Times (Apr. 21, 2020), <https://www.nytimes.com/2020/04/21/arts/ucb-new-york-virus.html>.

<sup>16</sup> U Street Music Hall, *U Street Music Hall Closes After 10 Years* (Oct. 2020), <https://www.ustreetmusic hall.com/e/u-street-music-hall-closes-after-years-124103303321>.

<sup>17</sup> Sierra A. Porter, *Vaudeville Mews Shuts its Doors, a Victim of the Pandemic*, DES MOINES REGISTER (Oct. 2, 2020), <https://www.desmoinesregister.com/story/entertainment/music/2020/10/02/after-18-years-vaudeville-mews-says-cant-endure-covid-19-pandemic/3595963001>.

<sup>18</sup> *Port City Music Hall Closes Permanently due to Pandemic*, PORTLAND PRESS HERALD (Aug. 3, 2020), <https://www.pressherald.com/2020/08/03/port-city-music-hall-closes-permanently-due-to-pandemic>.

<sup>19</sup> Taylor Mims, *Venues Closing Across America: An Updating List (And Why It Matters)*, BILLBOARD (Sept. 18, 2020), <https://www.billboard.com/articles/business/touring/9451748/venues-closing-coronavirus-america-list>.

<sup>20</sup> 15 USC § 9005(d)(8) ("To receive loan forgiveness under this section, an eligible recipient shall use at least 60 percent of the covered loan amount for payroll costs, and may use up to 40 percent of such amount for any payment

loan forgiveness was based on employee retention.<sup>21</sup> Because many live performance venues are located in urban areas where rent is high, rent significantly exceeds payroll costs.<sup>22</sup> Many performance venues were unable to retain most employees because they were completely shuttered or subject to substantial audience capacity constraints.<sup>23</sup> So even if the venue could avail itself of a PPP loan, a large portion of the funding would have to be repaid. That was a risk many venues were unable to take not knowing when they would open again. Likewise, the Small Business Administration's **Economic Injury Disaster Loan Program**<sup>24</sup> provided loans, not grants, which was a significant risk for venues that do not know when they will be able to operate again.

b. Federal Emergency Management Agency (FEMA) Public Assistance grants

Performing arts facilities were eligible for FEMA grants for emergency protective measures taken to mitigate the spread of COVID-19, such as disinfecting theatre spaces.<sup>25</sup> But only non-profit and government performing arts venues were eligible for such grants and the costs of rent and salaries were not covered.

c. National Endowment for the Arts grants

Congress appropriated \$75 million to the National Endowment for the Arts “to prevent, prepare for, and respond to coronavirus,” but these grants were not available to performing arts venues that are for-profit entities,<sup>26</sup> and the amount of the appropriation did not approach the need.<sup>27</sup>

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of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation), any payment on any covered rent obligation, or any covered utility payment.”)

<sup>21</sup> 15 USCS § 9005(d)(2).

<sup>22</sup> Clare Shafer, *‘There’s Got to Be a Way’: Concert Venues Continue to Face Hardship, Optimism Amid COVID*, ROLLING STONE (July 1, 2020), <https://www.rollingstone.com/music/music-features/new-york-venues-coronavirus-1021981>.

<sup>23</sup> Letter from the National Independent Venue Association to Speaker Nancy Pelosi, Minority Leader Kevin McCarthy, Majority Leader Mitch McConnell, and Democratic Leader Chuck Schumer (Apr. 22, 2020), <https://www.nivassoc.org/niva-letter-to-congressional-leadership>.

<sup>24</sup> U.S. Small Business Administration, *Economic Injury Disaster Loans*, <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loans>.

<sup>25</sup> N.Y. HOMELAND SECURITY & EMERGENCY SERVICES, DR-4480 (COVID-19) – APPLICANTS BRIEFING PERTINENT INFORMATION (Mar. 30, 2020), <https://suffolkcountyny.gov/Portals/0/formsdocs/FEMA/DR-4480-NY%20COVID-19%20Applicants%20Briefing%20by%20DHSES.pdf?ver=2020-04-01-125131-013>.

<sup>26</sup> CARES Act, Pub. L. No. 113-136, 134 Stat. 281, 552 (2020).

<sup>27</sup> Tessa Solomon, *A Historic \$2 Trillion Coronavirus Relief Package Is Officially Approved. Arts Organizations Won’t Receive Much Funding from It*, ARTNEWS (Mar. 27, 2020), <https://www.artnews.com/art-news/news/coronavirus-financial-relief-package-arts-organizations-1202682450>.

**C. The European Union and the UK are providing significant support for the arts and artists during COVID-19 to preserve their countries' cultural identities and remain globally competitive in the arts.**

Member states in the European Union and the UK have provided significant support for the arts and artists during COVID-19 because they recognize that government investment in the arts is necessary to preserve their countries' places as world leaders in live performance and other art forms. For example, French President Emmanuel Macron said that funding France's culture was important in part to "defend European creativity" in the face of competition from areas such as the US and China."<sup>28</sup> And the UK's Culture Recovery Fund campaign states that a purpose of the fund is to "help ensure the UK remains a global powerhouse for culture."<sup>29</sup>

**1. United Kingdom**

The UK is providing 1.57 billion pounds to cultural institutions through the Culture Recovery Fund.<sup>30</sup> Of the funding, 3.36 million pounds were allocated to grassroots music venues<sup>31</sup> and other funding for live performance is in the process of being allocated.

**2. France**

France announced 2 billion euros for a cultural recovery plan on September 3, 2020.<sup>32</sup> This funding includes, for example, 206 million euros for subsidized live shows, 200 million euros for music (both live concerts and recorded music), 10 million euros for private theaters, and 7 million for artistic employment in live performance.<sup>33</sup> This aid is in addition to emergency funds provided early in the pandemic to France's cultural institutions and cultural workers.<sup>34</sup>

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<sup>28</sup> France 24, *Macron Announces Extra Aid for French Arts Sector Battered by Covid-19 Crisis* (June 5, 2020), <https://www.france24.com/en/20200506-macron-announces-extra-aid-for-french-arts-sector-battered-by-covid-19-crisis>.

<sup>29</sup> Department for Digital, Culture, Media and Sport, DCMS Blog, #HereForCulture Toolkit, <https://dcmsblog.uk/hereforculture-toolkit/>.

<sup>30</sup> Press Release, United Kingdom, £1.57 billion investment to protect Britain's world-class cultural, arts and heritage institutions (July 5, 2020), <https://www.gov.uk/government/news/157-billion-investment-to-protect-britains-world-class-cultural-arts-and-heritage-institutions>.

<sup>31</sup> Press Release, United Kingdom, Culture Recovery Fund saves 135 grassroots music venues with emergency grants (Aug. 22, 2020), <https://www.gov.uk/government/news/culture-recovery-fund-saves-135-grassroots-music-venues-with-emergency-grants>.

<sup>32</sup> Press Release, Ministère de la Culture (France), Plan de relance: un effort de 2 milliards d'euros pour la Culture (Sept. 3, 2020), <https://www.culture.gouv.fr/Presse/Communiqués-de-presse/Plan-de-relance-un-effort-de-2-milliards-d-euros-pour-la-Culture>.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

### 3. *Germany*

Germany is providing 1 billion euros for the *Neustart Kultur* plan.<sup>35</sup> This funding includes, for example, 27 million euros for music clubs and live music venues,<sup>36</sup> 20 million euros for dance,<sup>37</sup> and 20 million euros for guest and touring theater companies.<sup>38</sup> The program is intended to enable primarily private cultural institutions “to reopen their houses and to resume programs in order to offer artists and creative people career and future prospects.”<sup>39</sup>

### III. CONCLUSION

For the aforementioned reasons, the New York City Bar Association’s Entertainment Law Committee supports the proposed legislation.

Entertainment Law Committee  
Randy Friedberg, Chair  
Lori Barrett-Peterson, Secretary

November 2020

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<sup>35</sup> Minister of State for Culture and Media (Germany), *The Bundestag and Bundesrat decide on a NEUSTART KULTUR* (July 3, 2020), <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/aktuelles/bundestag-und-bundesrat-beschliessen-neustart-kultur-gruetters-ein-beitrag-der-international-seinesgleichen-sucht--1766490>.

<sup>36</sup> Press Release No. 232, Minister of State for Culture and Media (Germany), Press release, The federal government supports clubs and live music venues (Aug. 22, 2020), <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/aktuelles/unterstuetzung-kultur-1779146>.

<sup>37</sup> Press Release No. 267, Minister of State for Culture and Media (Germany), 20 million euros for the independent dance scene (July 30, 2020), <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/aktuelles/20-millionen-euro-fuer-die-freie-tanzszene-kulturstaatsministerin-gruetters-mit-den-programmen-wollen-wir-dem-tanz-in-deutschland-wieder-auf-die-beine-helfen--1772858>.

<sup>38</sup> German Gov’t, *The Federal Government Informs about the Corona Crisis*, <https://www.deutschland.de/en/news/german-federal-government-informs-about-the-corona-crisis>.

<sup>39</sup> Minister of State for Culture and Media (Germany), *RESTART CULTURE*, <https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-medien/neustart-kultur-startet-1767056>.