teacher training, that is, professional development for teachers, so they can use it.

In front of you, you have a set of papers which includes pictures of the home pages of three projects that we have funded through our program called "Teaching with Technology." We are now planning a project that will probably be called "NEH Cyber Schools," to prepare teachers to use the technology that is now available.

We have in progress also a project that is funded by the MCI Corporation that will provide a home page that will guide teachers and students and parents to the best that is available now on the World Wide Web.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you for that very excellent testimony.

[The prepared statement of Mr. Hackney may be found in the appendix.]

The CHAIRMAN. Jane, please proceed. It is always a pleasure to listen to you, and I look forward to working with you this year.

Ms. ALEXANDER. Thank you, Mr. Chairman.

I am also pleased to come before the committee and talk about what I feel is a remarkable agency, the National Endowment for the Arts, and one to which I owe my own career, having jump-started it, as it were, at the Arena Stage in a play called "The Great White Hope," which was begun with a National Endowment for the Arts grant to the playwright Howard Sackler back in 1967.

I would also, Mr. Chairman, like to submit my written statement for the record and make a few brief remarks.

The CHAIRMAN. You may consider that done.

Ms. ALEXANDER. Thank you.

I believe that one of Government's responsibilities is investment in its citizens, in the life and quality of its communities, and in the future for its children. NEA has been a leader in arts education and lifelong learning in the arts almost from its inception.

"Toward Civilization," which was a report that the Endowment put out about 10 years ago, looking at arts education in our country, made a major impact on the decline of arts education in the past few decades. Since that time 10 years ago, the Endowment has been in the forefront, a leader in arts education, as a convener, as a catalyst and as a collaborator.

As a convener, for example, we have convened the Goals 2000 Partnership, which seeks to help States put arts in the curriculum as Goals 2000 has asked and Congress passed a few years ago.

As a catalyst—and you will hear more about this in a few minutes from another panelist, the Mad River Theater Works in Liberty, OH—we have funded a play with students who will develop it with the theater professionals at Mad River Theater Works in the local area in Ohio.

As a collaborator, we have, for example, a collaboration with the Department of Education and the Kennedy Center called "Arts Edge," which is building a network and a database for people all across the country about arts education.

Arts education still has a long way to go in the United States, but if you have been looking at the news lately, you know that studies on the development of the brain and early childhood development, and indeed even for senility in our aged, indicate that the

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arts are a stimulant that works at all ages and in fact keeps synapses that create learning open in the brain. These are stu that are coming out of places like UC-Irvine and elsewhere, the results are indicated by what Senator Kennedy reference the College Board's exams.

We have been a leader in helping people facilitate the art: early childhood, and I would bring your attention to a book have before you that we have recently republished, "Imagi which is for the purpose of introducing your child from a very e: age to the arts—it is for parents and teachers—and also to lifel learning in the arts, "Lifelong Journey," which is how we help elderly in society with the arts.

Society is also indicating a need for safe havens for our child after school. I remember, Chairman Jeffords, when we first r you talked about children after school and their need for someth to do. We see now in the effort for volunteers to come forwarc America that safe havens are part of that; after-school progra The Endowment has been very involved in helping young pec after school with the arts, which is a natural safe haven for th where they learn a skill, where they are kept off the streets, wh they have a mentor as a teacher.

And I would bring your attention here to some programs we h with the Department of Justice, one of which is "Pathways to S cess," and an illustration of some of these. You also have before y some of the programs we support for children after school, one which is "Art Works." You probably have that book before you.

The President's Committee on the Arts and Humanities last ye also came out with another research compendium on "Coming Taller," about after-school programs for children.

Almost everything the Endowment does in one way or anoth could be called "educative," and indeed, many of our performi arts groups and artists are doing outreach service to their comm nity as well as doing their own work creating art.

The decline in our funding—almost 40 percent—has made it d ficult, however, for the artists and the arts organizations to do bo thing at once—to create and sustain their work and be producti in that way and also address the needs of a community or the ed cative needs of children or older people.

Senators perhaps have heard from some of their constituen about the decline in grants to their States. In fact, in 1997, we ar awarding fully 1,000 less organizations than in the past—1,00 across the country.

This is at a time when I feel we should in fact be expanding ou commitment to the arts in society, not only for arts education an for our children after school, for quality of life issues, for economi vitality in communities, for a commitment to our cultural heritag generally. This, at a time, as Senator Kennedy again referenced when we are going to be celebrating a very big birthday, the mil lennium, and how best should we do it but through the arts an humanities?

The congressmen who created the Endowment 32 years ago had. in my estimation, incredible foresight. I would like to just quote one paragraph from the original legislation: "Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants."

Well, this comes at a rather amazing time when new technologies are exploding across the country, and we need even more wisdom and vision with regard to how to interpret them in our society. The arts play a very important role in this area.

I ask you today to consider the vision of those who came before you in these halls, their vision of a Federal Government which was supporting the Nation's culture in all of its richness—in concert, of course, always with the private sector, with the States and with the communities who are our partners in this—investing in creativity and imagination, leading in arts research and education, ensuring that our varied heritages across the country and our cultural treasures are there for those who come after us, and that we do not rob our children of their future, artistically, by neglecting to nurture and develop the artists and arts organizations of today.

Thank you, Mr. Chairman and members of the committee.

[The prepared statement of Ms. Alexander may be found in the appendix.]

The CHAIRMAN. Thank you for excellent testimony as always, both of you.

I do not think I have seen anything that has drawn more bipartisan support than the call for assisting in education. The President made that obvious, of course, in his State of the Union Speech; the Republicans in their legislative initiative have emphasized education—in the Senate, at least, and I expect so in the House. Thus, I think we have an awareness now that we have not had before that the critical aspects of our Nation's future depend upon what we do with education.

I have been here long enough to watch the arts go up and down. There was a time in the 1970's when we were doing all we could to reinforce art in the classroom and with the public, and then, when funds became short, the first thing that went was arts in the schools.

I think we have learned from experience that that was probably very, very poor judgment on the parts of school boards as well as on the part of Congress. I think it is time that we refocus and reemphasize the importance of education in the arts, and Senator Kennedy's information, which I had not seen, got me excited.

Anyway, I would like to talk with you about what you are doing and what you can do with the existing funds and whether it would be possible to do more with more money. We will be listening today also to examples of school programs in the arts and in the humanities which have enhanced individuals.

Also, you already commented, but I would like Sheldon to comment also on the importance of the new revelations with respect to the age groups of zero to 3 and 3 to 6, because this year, this committee is going to examine what we must do to assist in the full development of a child. So I would appreciate some comments in those areas.

Sheldon?

Mr. HACKNEY. There is currently a growing awareness of the period zero to 3 in the life of the child. This is information that comes

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not from the usual sources of children's advocates and other groups, but from scientists themselves, for there is very hard scientific evidence that indicates that children are born, something like a bicycle that arrives on Christmas Day—unassembled. That is, all the brain cells are there, but they are really not wired. And children, frankly, wire themselves, their brains wire themselves. So they need external stimulation of all kinds, especially verbal stimulation, in order for the brain to construct itself and to construct those neural pathways that will allow them to learn later when they grow in maturity and acquire language, which is the tool of learning.

I have thought about what the NEH might be doing in that area. It is a little early for us. We are very active in K through 12 education of all sorts, formal programs, especially now, with trying to use technology and to prepare schools and teachers to use technology. I need to think a bit more about zero 3. That is clearly a period when parents are incredibly important, but the whole environment of the child is very important as well.

The CHAIRMAN. Jane?

Ms. ALEXANDER. As I said, the arts organizations who do arts education and outreach are quite active in that regard with young people across the country.

I remember a few years ago, Senator Kennedy and I visited a classroom in Roxbury, MA where there were second-graders learning from members of the Boston Symphony Orchestra about music; and I have visited dance classes for 2-year-olds that we helped support in Salt Lake City and ceramic classes in Space 111 in Birmingham, AL—I could go on and on. The Endowment supports all of these kinds of things for early childhood development.

Mr. HACKNEY. I might say, Mr. Chairman, that you are going to hear a little bit later from the State of Vermont, where there are interesting programs, reading programs, literacy programs, going on. Among them is an intergenerational program—this is being done in some other States as well—which involves older people actually reading to children and even programs that teach mothers how to read to their children and what to read. Even at the very tender age of zero to 3, that sort of reading, the language stimulation, is absolutely critical to the development of the child. It is very interesting.

The CHAIRMAN. Senator Hutchinson?

Senator HUTCHINSON. Thank you, Mr. Chairman.

I have an opening statement that I would submit for the record.

The CHAIRMAN. Yes; so ordered.

Senator HUTCHINSON. And I would also like to, if I might, submit for the record the last two semiannual reports to Congress from the Office of the Inspector General of the National Endowment for the Arts.

The CHAIRMAN. Certainly. That will be made a part of the record.

[The prepared statement and attachment of Senator Hutchinson follows:]

Senator HUTCHINSON. Thank you.

Ms. Alexander, I think all of us applaud and appreciate the many good projects that the National Endowment has supported

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and the contribution that the Endowment has made to art education.

However, I believe that certain realities have compelled many to the conclusion that NEA subsidies are no longer justified. In my view, with all due respect to Senator Kennedy, that is a reasonable, not a reckless, position, and it is not an anti-arts position.

Total ticket receipts for performance arts and performing arts events are up almost to the level of receipts for spectator sports in the United States. No one would suggest that we ought to have subsidies for the NFL or the NBA, but here we have an industry—we have the arts arena—that today almost equals that.

Attendance is up in all arts categories, from museums to operas, from plays to ballets. Private giving to the arts is up to $9.96 billion. Private giving to the arts has been rising steadily since the time the NEA was created in 1965. When private giving is combined with State and local arts funding, the NEA subsidy, which was $99 million last year, is dwarfed, comprising less than one percent of total spending on the arts.

Now, I know that it is argued that the arts are flourishing today because of NEA's support, that the NEA is the catalyst for arts spending, and that the elimination of a small component of Federal spending for the arts would be devastating. But to give the NEA such credit I think is kind of akin to giving the rooster the credit for a beautiful sunrise.

The fact is that private giving to the arts seems to be unaffected by the level of overall NEA funding. When NEA funding increased dramatically from 1975 to 1980, private giving was going up. When NEA funding leveled off from 1981 to 1990, private giving continued to soar. And in the 1990's, when NEA funding has been cut, private giving has continued to climb.

So, faced with chronic deficits and a burgeoning national debt, confronted with Medicare cuts and tough choices on the Consumer Price Index and COLAs, faced with cuts in Head Start and WIC, it is very difficult for me to justify continued subsidies for the NEA. It becomes increasingly harder to justify the existence of the NEA when one takes a careful look at the overhead and the salary costs of your agency.

For example, from 1994 to 1996, the administrative costs of the NEA went from a little over 14 percent to almost 19 percent at a time when the agency was cut by 39 percent and was faced with the loss of 89 positions. Now, that administrative overhead amounts to about 20 cents on every dollar, so when we are talking about arts education, I think that that is very significant.

The NEH, by contrast, in 1996 had administrative costs 23 percent less than the National Endowment for the Arts, and while NEA's administrative costs continue to increase, the NEH proposes to decrease its administrative costs.

So I would just suggest that the debate today is not about the performing arts and their value to our culture and to our society. The debate is about waste and mismanagement. So I would ask why does it cost almost $19 million to distribute just over $50 million in NEA funds?

Ms. ALEXANDER. Senator, if I may answer the first part of your argument and then get to the administrative budget when you talk

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about the rise in attendance at performances nationwide, you are correct—the nonprofit performing arts venues have been on the rise. Yesterday, there was a wonderful article in, I believe, The New York Times about the rise in opera-going. This is true.

However, please keep in mind that with the nonprofit arts—and this is what we are talking about—the earned income ratio is declining for performing arts venues. Why? Because the venue of the performing arts itself—the concert hall, the theater, the dance venue—maintains a static number of seats year in and year out, while inflation costs rise for production.

You cannot continue to raise the ticket prices to the degree that the commercial arts sector does—for example, Broadway or other places like that—because you would then be becoming more elitist, and fewer and fewer people would have access to those venues. So, where earned income used to be on the average 60 percent of any performing arts venue's budget, it is now closer to 50 percent, and that is where we come in, the public sector and private giving.

When you talk about the rise in private giving, you are also correct that more people give, but let us not forget that most people who give are the individuals. How much more are they going to be asked to give? And these are individuals like you and me; we are not talking about the philanthropists, the great wealthy individuals in the country. The bulk of individual support to the country is from the regular public. And above and beyond the ticket price, there is stasis in corporate giving in the arts; there is a rise in giving to nonprofit venues, generally, but not for the arts. There is stasis in giving by foundations to the arts. And we have those figures for you if you should so wish, and I refer you to the Rockefeller Report of over a year ago, which talks about the fact that the private sector will not be making up the difference.

The public sector involvement and the Government's involvement in the Nation's arts, in the nonprofit arts venues, is to provide opportunity and access for all people. That is our role. We do not have a specific agenda, as many in the private sector would have or the commercial arts sector.

Finally, with regard to the administrative budget, let me point out that over 80 percent of our administrative budget goes to personnel. Every time our budget overall is decreased, our administrative budget is going to rise despite the fact that I had to cut our staff by almost 45 percent, because there are cost-of-living increases and our rent by Government Services Administration, that continue to rise.

Now, if the Senate and the Congress were to meet the President's request level for 1998 of $136 million, our administrative budget would decline to 13.8 percent. If you met a budget level of $156 million, we would have a 12 percent administrative budget.

Senator HUTCHINSON. So the fact that the percentage spent on administration within the NEA is higher than most other Federal agencies is simply because you are underfunded; that is the argument that you would make?

Ms. ALEXANDER. Because 80 percent of it comes from personnel—there are certain services that we simply cannot decrease. I have done the best job that I can in managing this agency at almost a

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40 percent budget cut, and we had to cut our staff by 45 percent. This was greater than any other agency in Government.

Senator HUTCHINSON. Mr. Chairman, I do not see a light on, and I have lots more questions, but I know there are other members here. Will there be another round, another opportunity?

The CHAIRMAN. Yes, there certainly will; it depends on how long we want to go. We do have a number of witness yet to hear from. Why don't you try one more, anyway?

Senator HUTCHINSON. Thank you, Mr. Chairman.

Ms. Alexander, let us put aside for a moment the debate over the role of the Federal Government in arts funding. There are, again, several concerns about the operation of the agency.

The National Endowment for the Arts, as I understand it, is not subject to the Chief Financial Officers Act, the Government Corporations Control Act, or other strict accounting standards. The NEA has not been subjected to any outside reviews of its management or accounting procedures, and as we were just discussing, the NEA has administrative costs approaching now 20 percent.

Both of the Inspector General's reports—October 1995 through March 1996, and April 1996 through September 1996—had some very serious criticisms and some recommendations, including assisting grantees in correcting or preventing the common deficiencies. They drafted a financial guide and asked that it be distributed.

What I would like to ask, Ms. Alexander, is would you agree today, before this committee, to submit the NEA to an independent audit of its management and operations, open the books to an independent audit, and would you agree today, voluntarily, to subject the NEA to the provisions of the Chief Financial Officers Act, which many other Federal agencies are subject to?

Ms. ALEXANDER. Yes, indeed, Senator, we would. I would like to point out that Congress is the one who decided which agencies would be covered by the Chief Financial Officers Act, and NEA was not included. Nevertheless NEA is subject to review by OMB and GAO, Treasury, and its own independent Inspector General.

Senator HUTCHINSON. And would you agree to an independent audit as well?

Ms. ALEXANDER. Yes.

Senator HUTCHINSON. Thank you for now.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Kennedy?

Senator KENNEDY. Thank you very much, Mr. Chairman.

Of course, I would imagine many of us are aware that the CBS contract for broadcast rights for the NCAA 'March Madness' basketball tournament totaled several billion dollars. So we know that ticket prices are only a part of the cost of producing these sporting events, and the major resource is television, which puts this in an entirely different context than what we are facing in the arts. Although I do not think any American who saw the "Civil War" series could ever forget it, or "The West"—I have only gotten through about 8 hours of those, and I still have many hours to go, but it is absolutely fascinating.

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And as Senator Dodd has reminded us, many of those sports stadiums that we see are being built with local tax revenues. I think it is good to realize where resources are coming from, I think it is a pretty different kettle of fish when we are talking the arts and the humanities.

I am reminded, Mr. Chairman—and I will not get it precisely right—that Claiborne Pell would always remind us that the age of da Vinci was also the age of De Medici. His point was that historically great civilizations were recognized for providing respect for rights and liberties, and great civilizations were *also* the ones with the highest support in terms of the arts.

I am impressed that you are able, with the overhead that you have, to try to look at some of the very special kinds of creative aspects of the American culture and art forms in the smallest of communities. Cultural heritage is something which enhances and it should be preserved. I mean, we are not talking about managing Social Security, where you simply send the check out. What the Endowment is looking to do, as I understand it, is to really find those aspects of the American soul and creativity which are out there, many of which are in small communities, and try to preserve them, record them, and make them available to the American public, and preserve them for future generations so that we can really have an insight into where we come from and who we are and the enduring forces that impact the American soul.

As the chairman pointed out, we are all enormously interested in the educational influences and capabilities of the agencies. I think the college board study reveals extraordinary figures. I recall talking with Jane Alexander some time ago, and before that to John Williams about how the Greeks were so successful in mathematics over such a long period of time through using art and music forms to help very small children begin to understand mathematical concepts. He was a great believer in the importance of arts and art education in terms of not only appreciation for the arts but also in terms of the expansion of the mind.

Ms. Alexander and Mr. Hackney, if you were to say to us that we have a program here that will raise SAT scores by 50 points, both in the verbal and in math, if you said that around here, most people, Democrat or Republican, would say: How do we do it? Let us find out how we do it.

Well, you have suggested how it can be done—in terms of the arts and music and music appreciation—and I would like to put that report in the record. It is a fascinating analyses of a whole range of art appreciation and music appreciation and what has happened in recent times in terms of the SAT scores—not that those ought to be definitive in terms of what is happening in people's minds, but it is at least a rather dramatic differential between those who have been a part of the arts and have studied it and those who have not.

Time is moving on, so let me just ask both of you to respond to this. What has been the experience at the Endowments with grants to your agencies in terms of developing private participation and support? What kind of leverage have you been able to sustain in terms of dollars that have been appropriated. How you have been able to leverage the private sector and, if it were not there, whether you think those particular undertakings would have gone ahead or been successful.

Mr. HACKNEY. I will go first, since the NEA figures are a bit more dramatic because they are dealing with a different set of institutions. We make possible the generation of private funds for humanities activities in rather a dramatic way. Over the history of the NEH, $1.5 billion has been generated from the private sector to support humanities activities in response to the NEH programs.

I have been thinking a bit about the administrative cost question as well, and there are economies of scale that come with the growth of any enterprise that is properly managed. Those economies of scale work in reverse as you go down, of course.

One thing that makes NEH a bit more expensive to operate than perhaps the Social Security administration is that the heart of our enterprise is a merit review system that depends very much on scholars and humanists and the directors of museums joining in a system of judging the quality of applications. That gives a great deal of integrity to our program, and because our programs have integrity, because the quality is assured, project directors can then go to private sources of support with that imprimatur of excellence and get support much more easily than they can otherwise.

So that $1.5 billion comes from the integrity of the review system itself, and I think it is quite dramatic. Our leverage factor is something over $1 for every $1 of grant support that we give.

Ms. ALEXANDER. Thank you.

Senator, every time we make an award, we ask for a one-to-one match, and in some cases, three-to-one, depending on whether the applicant wants to apply for Treasury funds. In the past when we had seasonal support of our institutions, we could point pretty directly and say that for every dollar that we awarded, in fact we leveraged a lot more from other public and private moneys. Usually, the ratio was about 12-to-one. Now, we only give project support, so we cannot really use those figures because they do not work.

But through our Planning and Stabilization Division, we are in great measure supporting organizations creating their own endowments, which again is another form of leveraging community support for the endowments for those institutions. Everything we do in that sense is seeking other partners.

Senator KENNEDY. My time is up, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you, Senator Kennedy.

Senator Warner?

Senator WARNER. Thank you, Mr. Chairman.

I welcome our witnesses, and I wish to compliment them both on the leadership that they provide to their respective organizations. Through that leadership, I think you have greatly enhanced the credibility of the organizations in the Congress of the United States.

I have been forewarned by everyone not to mention politics, but I have decided to go ahead and do it, anyway. I just finished a reelection campaign in which there were issues raised, primarily about your organization, Ms. Alexander,but you have done a lot to improve the atmosphere for those of us who are daily working in the political arena and answering to responsible inquiries by citi-

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zens who still have deep concerns; but again, I think you have gone a long way.

I must say I am curious about this booklet—it is a very pretty, very attractive cover—but didn't we just see on Monday three Presidents with paintbrushes cleaning graffiti off of walls? [Laughter.] But I guess art is in the eye of the beholder, then; wouldn't that hold true?

Ms. ALEXANDER. I think that is supposed to be a mural, Senator.

Senator WARNER. I guess I do detect a wall somewhere. [Laughter.]

Mr. Hackney, you and your organization have recently touched something very dear to me and to many Virginians, and that is the Jamestown archaeological project. I have visited that, and it is fascinating. We are digging up remnants of the 1600's and making slow but sure progress in that area.

Mr. HACKNEY. It is exciting, isn't it. It is emerging, and it was not known that it was there; it had basically been lost——

Senator WARNER. Could you draw your mike up just a little closer, because what you are saying might not be shared with our audience.

Mr. HACKNEY. I was saying that it is an exciting venture because it was not really known that the remains of the original settlement were still there. They sort of disappeared, one though, into the river; but they are there, basically, under the mud, so they are reemerging.

Senator WARNER. They are there, and you are bringing that to light, and it is thoroughly enjoyed by the children.

Going right to the heart of a question, I have been a supporter through the years, and I am proud to be, and will continue to do so, but I would ask Ms. Alexander this. What kind of handicap has the absence of a permanent authorization placed on you, if any?

Ms. ALEXANDER. Senator, as you know, we have been appropriated without reauthorization, as have a number of other agencies through the years. I believe that we would continue to be appropriated, but I think more——

Senator WARNER. I understand all of that, but if it is not to happen again this year—I hope the leadership, and we have strong leadership on this committee, will take a shot at it, and I will support it—what handicap, if any, does the absence of this authorization place upon you and your organization, the trustees and others?

Ms. ALEXANDER. I feel that the handicap is one of the value placed on the arts in our society; more than anything, a commitment to the appropriate Federal role in the arts in our society. And I would hope, as we approach this new century and this new millennium, that we would have that commitment from the great Government of the United States of America.

Senator WARNER. Well, I share in that.

Mr. Hackney, would you care to address the question?

Mr. HACKNEY. Yes, and let me make two quick points. While I agree with what Chairman Alexander has said, it is also true that without an authorization, we are governed by different rules in the House of Representatives, making our appropriation much more vulnerable when it reaches the floor. That is quite a serious matter.

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The other is that there is language in the bill that this committee voted out last year that would be enormously helpful to both agencies in the pursuit of our missions, and that is the "solicit and invest" language allowing us to actually solicit funds and then to manage those funds so that they grow over time, making the two agencies, eventually, in the distant future, perhaps, more of an endowment than they are now. I really cannot stress too much how important that would be to us.

In the humanities, there is a group of supporters who have come together, with my beneficent smile, and formed an organization called the National Trust for the Humanities, which is the 501(c)(3) organization chartered here in the District. That is wonderful, so there is an organization that can solicit and invest funds and can raise money to support humanities activities. But it would be every helpful if the two Endowments could do the same.

Senator WARNER. As a follow-up to Senator Kennedy's very interesting observation about the relevance to art in learning other skills like mathematics, how are you dealing, Chairman Alexander, with the school boards across America, to get greater enthusiasm into our lower schools for the acceptance of an art program as part of the curriculum?

Ms. ALEXANDER. Senator, we have been a convener in that regard of the Goals 2000 Arts Partnership, which involves chief State school officers and all kinds of people who are involved in education in general, helping to get the arts as part of the curriculum as Goals 2000 suggests the arts should be. This has been quite a successful partnership, and I think we have all States on board now subscribing to Goals 2000 in one way or another.

Senator WARNER. Very good. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Warner.

Senator Bingaman?

Senator BINGAMAN. Thank you, Mr. Chairman.

Let me join the other Senators in congratulating both of you on your excellent work, and we will certainly miss you, Dr. Hackney; your contribution has been tremendous. And Jane, we are glad you are staying; I appreciate that.

Let me say that in my home State since I have been in the Senate, I have seen a burgeoning of arts-related activity, not just in Santa Fe, where you would expect it because of the long tradition of art involvement, but in the small towns around New Mexico. In my home town of Silver City, we now have an arts council which does a superb job of bringing performers to town and making educational opportunities and arts-related cultural opportunities available to students. I believe the National Endowments have had a big part in that. And I think that instead of our focus always being on how we can cut back on your support and cut back on the involvement of the Federal Government, we ought to look at areas where we might do a better job of asserting and making this opportunity available.

One that occurs to me is in Head Start. Picking up again on what Senator Kennedy referred to about the improvement in test scores of students who have had music training, there was a news segment on National Public Radio last week that highlighted the study that you referred to, Ms. Alexander, in Irvine, CA. The report

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stated that the Irvine researchers found that 3- and 4-year-olds receiving music lessons on electronic piano keyboards scored 34 percent higher on spacial-temporal reasoning tests, which increase the ability to solve puzzles or assemble toys, than children given computer keyboard lessons or no keyboard training at all. And of course, a 34 percent higher score is even better than a 50-point improvement on the SAT.

I am just wondering what has been done or is being done to insert the arts, particularly music, into the Head Start program, where the Federal Government does have some ability to determine what types of activities the students engage in. Do either of you know the answer to that?

Ms. ALEXANDER. We had a program until the budget cut called "Art Plus" with Wolf Trap, which was addressing children in early learning and music, and Head Start programs would often be a part of that. Unfortunately, we are not longer directly involved with that because we did not have the funds to continue it. But it is an area that we think is very important, as I think you do, and we would like to be more involved, and we are seeking ways to find more involvement with Head Start.

Senator BINGAMAN. It would be interesting to know what kind of additional costs would be involved in trying to provide that additional dimension to the Head Start program. I know we are always short of funds for Head Start, but if there were a way to enrich the program through some type of music component, it seems to me, based on the results that they are obtaining in the Irvine study, that it would be a good investment.

Ms. ALEXANDER. Yes.

Senator BINGAMAN. Let me just conclude by saying that I think the work that the National Endowment for the Humanities has been doing to use technology and to make that technology more supportive of people in our schools trying to teach the humanities is a great step forward. I am persuaded that as far as looking for cost-effective ways to spend Federal dollars to improve education, technology may be the most cost-effective thing we can do in providing new tools to the teachers in the classrooms. I know that that is one of the priorities that you have had, Dr. Hackney, so I commend you for it. I think that is exactly where you should be putting your emphasis.

Mr. HACKNEY. Thank you.

Senator BINGAMAN. Mr. Chairman, that is all I have.

The CHAIRMAN. Thank you very much, Senator Bingaman. Senator DeWine?

Senator DEWINE. I have no questions, Mr. Chairman.

The CHAIRMAN. Senator Reed?

Senator REED. Thank you, Mr. Chairman.

I too want to commend both Chairman Hackney and Chairman Alexander for their stewardship of their agencies and also for their testimony today.

Some of the discussion today has been intriguing and interesting. When I talk to the leaders of my arts and humanities communities back in Rhode Island, they cite the indispensable need for the National Endowments for the Arts and Humanities. We have seen numbers that private giving is going up, and I suspect that that is a function of arts organizations working very much harder to stay in place; their costs are rising. They have to reach out, and one reason they have to reach out more to private donors is because the Endowments are less and less robust in their gifts and grants to these agencies.

I think the other aspect of this, though, that they would cite to me is that without the Endowments, their purpose, their larger public goal, would not be served, and they would become more commercial—they would become a lot like what you see in Broadway touring shows, etc. A case in point—in Providence, we have two major stages. We have the Providence Performing Arts Center, which puts on Broadway touring shows that are very well-received; it is a not-for-profit, but it is a not-for-profit designed to bring in commercial entertainment. We also have Trinity Repertory Company, which is one of the leading repertory theaters in this country. Right now on their stage, they have a new play called "Ambition: Facing West," which would not have been produced, I do not think, without the Endowments' support of Trinity in general and specifically. At the same time, they have a very modern revival of "Romeo and Juliet." This is theater that you would not get in Providence, RI without the contributions of the National Endowment for the Arts and private donors. And frankly, I do not think you can have one without the other, so I think we really should recognize the critical role that both endowments play in the lives of our communities.

One other thought is that we have been talking about culture and the arts and all of these wonderful things. Back up in Rhode Island, this is economics. The renaissance and revival of Providence is being led in large part by the revival of theater, the arts. That is one of the things that has moved Providence forward. And I do not have to talk to my arts and humanities communities; I can talk to the mayor and all the people involved—they like this. This is something that is giving us economic power again in the city.

For all of these reasons, I would ask for your comments about how much your help spurs economic development, just as do Department of Commerce grants and all the things we do routinely to help cities become communities and centers of vitality. I wonder if you could comment on the economic perspective?

Ms. ALEXANDER. Yes. I am glad, Senator Reed, that you talk about Providence and the mayor's wonderful investment in the arts and in artists in particular. The mayor of Providence has given special tax breaks to artists who will move into the downtown area and revitalize the moribund neighborhoods. I think this has been extremely successful and has been duplicated in other cities as well.

We know that artists coming into areas gentrify the neighborhoods, and this is in fact going on in Providence. I would also like to point out that the city has been revitalized through architecture and design. If you pay a visit to the great City of Providence and a few others in the country that recognize the value of design and architecture, I think you will see that the arts play a great role there.

The issue of economic vitality is going on in conversations with mayors all across the country, and cultural tourism as well is one

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of the hottest things going right now, and cities are trying to brin; cultural tourism more into play in their communities.

Senator REED. Dr. Hackney?

Mr. HACKNEY. Cultural tourism is a focus of the NEH now. On way in which we are doing that in conjunction with the NEA, in fact, is that with a consortium of cultural institutions, we have funded a set of seminars around the country to train or inform agents who are involved in tourism and also the leaders of histori cal museums, historical sites, and other cultural institutions abou how they stimulate tourism in their areas. This is not very com plicated, but it is a new field, that is, the cultural heritage, o "tourism," as it is known. So we are placing a lot of emphasis or that.

Your neighboring State, the State of Connecticut, has a State Humanities Council that is very aggressive in this area, and it has gotten State funds, which I think is a great thing, but the NEH is doing that as well.

Let me give you one example of another that illustrates the impact of humanities in arts activities. We helped to fund an art exhibit called "The Age of Rubens" that travelled to half a dozen sites. One of its stops was Toledo, OH, which is a small city with a very nice museum. It stayed there for about 3 months, and it attracted some 230,000 visitors during that 3-month period. That is well above the population of Toledo, OH, so it was clearly bringing people from all over the region to that museum.

A study was done of the economic impact of that fairly short art show, and it was determined that the impact was worth $27 million to the local economy, because those people came, they went to the show, they stayed in hotels, they ate in restaurants, they shopped, so it had a tremendous boost to the economy of Toledo.

That is not why we do humanities activities, but it certainly is a very beneficial side effect of it.

Senator REED. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Reed.

Senator Dodd?

Senator DODD. Thank you, Mr. Chairman.

I will ask unanimous consent to have my opening comments included in the record if I may.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Dodd follows:]

PREPARED STATEMENT OF SENATOR DODD

Mr. Chairman, I am very pleased that this morning we begin consideration of the reauthorization of the legislation establishing the National Endowment for the Arts and the National Endowment for the Humanities.

Wherever I travel around my home state of Connecticut and elsewhere in the country, I am reminded of the richness of our nation's artistic heritage and the diversity of our cultural life. From arts education programs in our schools, which may start with finger painting among preschoolers, to the artistry of deaf performers in the National Theater of the Deaf, art is everywhere in our society, enriching our quality of life and improving our communities.

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We should all be proud of the growing vitality of this nation's arts. And yet, we see today an effort to dismantle the one national institution that has presided over this blossoming in American life—the National Endowment for the Arts.

With a deep commitment and a small budget, the National Endowment for the Arts has provided vital support to states, local communities, schools, artistic and cultural institutions, artists, and others for just over 30 years. While limited, these dollars have made a substantial difference. It is estimated that each dollar from the NEA attracts eleven dollars in local and private contributions. This has enabled communities with few resources to attract major traveling shows and to develop their local talents with local opera, theater and orchestra groups.

The arts not only contribute to quality of life, but they also add greatly to the economic life of our communities and our country. It was estimated that in 1988 the arts contributed $354 million to Connecticut's economy. A 1993 study of the New York and New Jersey region estimated the economic impact of the arts to be nearly $10 billion for these two states alone.

Mr. Chairman, the arts make a great difference in our lives, and in many cases, it is the NEA that makes the arts possible.

We must put the NEA once again on a strong footing. Most importantly, the agency, along with the NEH, must be reauthorized. I am hopeful that the Committee can pick up where we left off last Congress. After a great deal of work developing a consensus, this Committee reported a strong reauthorization bill on a 12-4 vote. It was certainly not everything I, nor probably any other member of the committee, wanted; but it was a strong bill that had our support.

Mr. Chairman, I also believe we must do more to ensure the future vitality of the NEA and the NEH. We must truly endow these agencies. As you know, I have been working on a proposal by which revenue from a copyright extension would fund a True Endowment. This endowment would supplement existing funding for the agencies, but provide a firm base of consistent support. Mr. Chairman, today's successful art would help support the art of tomorrow. I recognize that copyright law is not within this Committee's jurisdiction, but I am hopeful that we can keep this sort of innovative idea in mind as we move forward on this vital piece of legislation.

Mr. Chairman, I look forward to hearing from our distinguished witnesses today. I am particularly pleased to welcome Jane Alexander and Sheldon Hackney back to our committee. Each has shown such incredible leadership of their agencies at a very difficult time.

I would especially like to take this opportunity to thank Sheldon Hackney, who recently announced his retirement, for his service at the NEH. By any measure, his tenure has been difficult from the history standards to battling over appropriations. Not only did Sheldon meet these challenges; he also amassed a substantial record of new accomplishments—The National Conservation, the recruitment of key corporate sponsors for the NEH's work and redesign of the agency.

Senator DODD. And let me just underscore the comments that Jack Reed made. I do not have the numbers for the last couple of years, but in 1988, the arts contributed $350 million to my State's

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economy. That is a 10-year-old number, and I do not have the latest number, but obviously, it has probably gone up.

I would also underscore his point about how different artistic events attract different audiences. There is a great deal of value in having those productions which at this juncture may not necessarily attract the most attention but are vitally important if you are going to maintain a movement in the arts area. For instance, things like the Bushnell Memorial in Hartford, which has commercial productions which are very successful, are critically important to the downtown area of Hartford. The American Theater of the Deaf is obviously quite different in economic terms and yet it makes a remarkable contribution.

I was thinking about a great irony the other day. I am on the board of the American Theater of the Deaf, I spoke at their 30th anniversary, and I would say to my colleagues how times have changed. The idea for that theater was initiated by the Federal Government. The administration at that time came up with the idea and sought someone willing to start a theater of the deaf. The idea came from here, and David Hayes, who was associated with the O'Neill Theater in Connecticut, stepped forward and said, "I will do it; I will try." And again, it was not tremendously popular or successful initially. Today, however, it has traveled all over the world. In fact, they performed here in the Senate a year or so ago, which my colleague from Vermont may recall. So how times have changed. Here was the Federal Government urging someone to step forward and do something, and today we are in the position—it seems—to be discouraging the public sector's involvement in making the arts available to more people.

Well, as you know, I sort of go around and around on this issue. I will say to my good friend and colleague from Arkansas that we have been through the dreadful experience in the last days in Connecticut of trying to keep the Hartford Whalers in town. I do not know how it is working—there has been some new effort in the last 24 hours or so—but it looks like they may be leaving, despite the fact that we offered to build a new $147 million coliseum for them, not to mention roads and whatever else they would have needed in order to stay in town. But the owner is going to shop it someplace else. So that here, we are talking about a public commitment to build one coliseum in Hartford, CT for a hockey team that will exceed by $50 million the entire budget for the National Endowment for the Arts. Now, that is public money going to build one ice hockey rink in one town.

So it seems to me that as a country that when we start talking about the availability of resources to bring productions and ideas to people who would not otherwise have access to them, it is something we ought to be engaged in and proud of in this country. We should not have the paucity of resources that we dedicate to something that has contributed so much to our wealth as a Nation.

I am hesitant to tell you this story, but—and by the way, I find that students bring this up all the time. Yesterday, I spoke to four public high schools in my State through an interactive television system—New London High School, Waterford, Montville, and East Lyme—on the issue of the arts and arts education and their local school budgets. And about 3 or 4 months ago, I did an interactive

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program with students from four high schools in Ohio, Michigan, Illinois and Missouri, and one student asked about the NEA. I gave my argument that I thought this was an extremely important effort, and I made the point that, historically, most of us can remember the great artists from a period of time, but we have a hard time identifying who the political leadership was at the time that may have supported it along the way. So we in leadership sort of fade into memory, but artists have a way of surviving history.

I thought I was being very clever, and I said, for instance, everyone remembers who painted the roof of the Sistine Chapel, but hardly anyone could tell you the name of the Pope who commissioned it to be done. And I said, of course, it was a wonderful accomplishment of Leonardo da Vinci. [Laughter.]

And all of a sudden, the television was going crazy, and one 12-year-old was raising her hand madly, and she said, "Senator, you are not very bright. That was Michelangelo."

So I said, "That is my point—I wanted to see if you knew." [Laughter.]

But the point, obviously, is that we remember the artist, but very few people remember who the political leaders are. So I do think this is important. Finally, my colleague from Arkansas talked about the rooster—I am not sure that roosters ever take credit for the morning, but they certainly celebrate it. And in a sense, I think the NEA and the NEH are celebrating the creation as much as the rooster celebrates the creation of another wonderful, God-given day. In a sense, that is what we try to do with this, is to celebrate it and allow people to enjoy the celebration of our national creations.

Now let me just raise once again with both of you my idea on true endowment. As you know, I have been at this for about 4 or 5 years, and I am going to pursue it, and I am eventually going to win. We are sitting around, arguing about \$90 million, \$100 million, \$110 million, back and forth here, and I suspect this will go on as far as the eye can see in the future. We have got to build a true endowment for the NEA and NEH in this country.

The idea that I have raised over the years is to look at copyright. It has faced a lot of opposition, primarily from the copyright community. Once the copyrights terminate, my idea would be to extend them—and if I could just finish this thought, Mr. Chairman——

The CHAIRMAN. Go right ahead.

Senator DODD [continuing]. That once the copyright terminates—right now, it is the life of the artist plus 50 years, and then, of course, it goes into the public domain. There is a debate to extend the copyright an additional 20 years, and I do not object to that, although I am getting a little uneasy when I see who is coming to lobby for it—it is not artists so much as it is second and third and fourth generations who are living off the works of their great-grandparents—which is fine, and I understand that, but the Constitution is quite clear—copyright is not an unlimited right.

It seems to me that if we could at the end of a copyright period, whatever it is—whatever Congress wants to establish—for an additional 10, 15, 20 years—we might then auction the copyrights, and people who want to bid on the copyrights could buy them for this period of time, and then let them police the collection of revenues

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off them, but those auction dollars would then support the Nationa Endowments for the Arts and Humanities. And with our ability t preserve and maintain works of art and the new creations that ar happening in ways that we could not even have possibly imagined while this would not necessarily generate a great deal of revenu in the next few years, certainly in the next century, long after al of us have departed, I think you would really create a fabulous en dowment—one generation, if you will, supporting future genera tions of artists.

I have asked the Copyright Commission to look at this idea, bu they are going to take another year, so Mr. Chairman, I am goin to put this back in bill form—I did it several years ago—and I ar going go raise it again, and I am going to offer it as amendmen on the copyright extension if it comes up. I have spoken with pe ple like Kitty Carlisle Hart, who is a strong supporter of thi idea—of course, her husband made a significant contribution. have mentioned it to Paul Newman, who is my constituent, and h thinks it is a terrific idea; and I spoke with Anita Baker recentl

I think younger artists, the producing community, if you will, artists, really like the idea. And again, while I am sympathet with those who want to be able to reap the benefits of the forbearers, there comes a point, it seems to me, when it might b worthwhile make some of those resources available to the gener tion that is struggling out there and really establish a true endov ment. Now, again, it will not have large resources early on, but think it is what we ought to be getting to, and getting to as quick as possible, as a way of really sustaining a long-term commitmer to the arts and humanities.

So I am going to offer it. I welcome cosponsors and supporte of the idea as a way of generating some support for this progran Again, I happen to believe there is a value in having the Feder Government involved in supporting these efforts because it is important that access and quality be enhanced. Living in Connect cut, Rhode Island, New York, obviously, there is availability. I sa "Chicago" Friday night and had a wonderful time. I can drive in New York; it takes an hour and a half to 2 hours for me to g there. But if you live in a rural part of Arkansas or Oklahoma some other place, access is much more difficult. And of cours what I have always loved that the NEH and NEA brings these pr ductions out to places where people would otherwise have a har time being able to enjoy them.

So I do not know if you want to make a quick comment on th endowment idea. Again, I have received incredible hostility fror the copyright community on this, but I am just sick and tired it; I think it is ridiculous. We really ought to try to create a re endowment here in this country. These are misnamed agencie These are not "endowments"; they are not even remotely close t being endowments. I do not know what it is going to be left by th time we get through ripping it apart here, but it certainly is n an endowment. So I would like to see us establish a true endov ment, and there are ways in which we can do it, and this is on idea; but I intend to pursue it, and I would be interested in you comments.

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Ms. ALEXANDER. Senator, I applaud your efforts. I think we do need to have a real endowment, and I think that that was the original intention of the legislatures, and what happens was that the matched money came in, sat here, and there were too many matches, and the agencies simply cannot handle it, and so the match was made by the organization outside. So there was never an endowment built up, and I think that your ideas with regard to copyright or even a piece of the copyright extension period of 20 years would be very valid for the humanities and the arts endowments. That, coupled with the ability to solicit and invest funds, as my colleague, Mr. Hackney, pointed out, would be very valuable.

I would also like to point out, since you cited the wonderful National Theater of the Deaf in Chester, CT, which is a rural area, as you know, that the National Theater of the Deaf, we have continued to support and we just gave a $40,000 grant to tour to the Southern States, the Midwestern States and all of the New England States. So that is how our little impact grants get out to all other areas. And this would not be supported by the private sector to the same degree.

Senator DODD. Thank you.

Sheldon, by the way, congratulations on a wonderful job. We will miss you.

Mr. HACKNEY. Thank you very much, Senator.

I like your idea very much and would support it. I would welcome any dedicated stream of revenue for the NEA and the NEH. The one that you are suggesting seems to me to be the most logical and the best bet. I think the opposition comes mainly from the holders of music and other copyrights. There is some nervousness among scholars, though, that I should at least mention here, in that this would keep out of the public domain for another 10 or 20 years materials that would be coming into the public domain and therefore be more easily used by scholars and teachers. I think that that is a trade-off, and the trade-off is worth it. I would support it enthusiastically.

Senator DODD. Thank you very much, and thank you, Ms. Alexander, for mentioning the Theater of the Deaf. They performed "Ophelia" recently, and I went to that performance. Obviously, people from the nonhearing community attend these performances. And what an incredible performance it was, without a sound, and yet with all of the signing, acting and emotion, to be able to recreate the production of "Ophelia" was just stunning—and then to watch an audience who does not clap, as we normally do, but how a deaf audience applauds in appreciation. You are not going to fill the Bushnell with it, and you are not going to sell out the Kennedy Center, but you are certainly going to make a difference to an awful lot of people out there who want to be able to go and see a production of nonhearing people that will really move you as a hearing audience should be moved by it, but obviously, it does not really attract the same kind of audience. So I appreciate your mentioning it.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Hutchinson?

Senator HUTCHINSON. Thank you, Mr. Chairman.

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It seems to me that, like so many of my colleagues have said, we have heard some very inspiring anecdotes and tales about the value of arts and particular art productions and programs. I do not quibble with that. If the debate today is about the value of art, there is no debate. If the debate today is about the value of art education, there is no debate. But I do object strenuously to the notion that to be in favor of culture, in favor of arts in our country, in favor of providing arts education accessibility to students in rural areas, you have got to suddenly be for the NEA, or to even believe—and with regard to my earlier reference to the rooster—I have heard repeatedly that the one percent of funding for performing arts in this country that comes from the NEA budget is the catalyst, is the leverage, for the flourishing arts community.

I am all for celebrating the performing arts, but I do not think accepting blindly this agency is the right way to celebrate, or to pretend that this is the only area of Federal subsidies and Federal support for the arts. In fact, I have here a listing that would indicate that not only is the National Endowment's budget less than one percent of all spending on the arts, it is less than 5 percent of total Federal support, direct and indirect, for the arts and humanities in this country—the Smithsonian, the National Gallery of Art, the Kennedy Center for the Performing Arts, the Woodrow Center for Arts and Education, the Library of Congress, USI Cultural Division, and on and on.

I just do not believe that the NEA, because it has the word "Arts" in it, should suddenly be exempt from the kind of scrutiny that it is our obligation as public officials to provide over any agency in which taxpayers' dollars are being spent.

We are hearing all this about we are trying to decimate the NEA; it seems to me from what I have heard today and from looking at the President budget that it is anything but being decimated.

Ms. Alexander, one of the justifications for the high administrative percentage and budget within the NEA was the salaries. As I look at the agency request for a 27 percent increase for fiscal year98, up to $136 million, if we contrast that 27 percent increase to the 2.8 percent COLA that the President has called for for Federal workers, that seems to me to be pretty sizeable—that is a great contrast to any kind of effort to decimate. And a review of that budget request for permanent positions shows an increase of 22 from the 1996 level, with 80 of 161 positions to be filled by individuals at the GS-13 level or higher. That is $45,939 to $98,714. This number does not include your executive-level salary or five other individuals who also make between $101,000 and $123,000 per year.

I want to express my appreciation for your willingness to make these management changes and to subject the agency to the kind of scrutiny that other Federal agencies face. I heard Senator Kennedy speak of small communities. I heard Senator Dodd talk about arts being available to more and more people. Well, I would feel a lot better about supporting the NEA if I saw that in my home State of Arkansas.

The primary mission as I understand it is to increase access to the arts, and yet at least one-third of congressional districts fail to get any direct NEA funds—one-third of congressional districts.

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A large percentage, as you know, goes to multimillion-dollar opera houses, symphonies and museums, such as the Metropolitan Opera, with a total income of $133 million; the Lyric Opera, with a total income of $37 million; the Boston Symphony, with a total income of $43 million; the Art Institute of Chicago, with a total income of $96 million. And many of these wealthy organizations have experienced significant cuts in NEA funding, but their budgets just surge right on.

To imagine that somehow, support for the arts is dependent upon what kind of subsidy we give to the NEA is a hollow argument. NEA funding has gone up, private support went up; NEA funding leveled off, private support went up; NEA funding was cut in recent years, and private support continued to go up.

I think it is a bogus argument. And in my home State of Arkansas, where the per capita income is well below the national level, median family income is well below the national average, and the level of education attainment, while we are striving hard, is not yet where it ought to be, and we know that—but last year in Arkansas, we had 12 grant applications submitted, and only one was approved for funding. My constituents, as Senator Dodd pointed out, do not have the resources to travel long distances to experience and benefit from art projects in many of the large cities where there is NEA funding, and one out of 12 does not seem to me to be very defensible.

The total direct grant award for Arkansas was $410,200 for the Arkansas Arts Council, which in turn "supports activities within the scope of our State plan." Four hundred ten thousand dollars for the State of Arkansas—just one museum in one big city—the Whitney Museum, for example, will receive $410,000, almost as much as our entire State of Arkansas receives!

So I have a hard time justifying the funding formula, which I believe so clearly shortchanges small rural States like Arkansas, where—and I am not sure what all the benchmarks are for the decisions that are made—one out of 12 and a total of $410,000 to the Arkansas Arts Council does not seem to me, out of a $99 million budget, a very wise investment in support of the arts and arts education.

One of the recommendations, as we discussed earlier, of the Inspector General's report was to provide a financial management guide for the nonprofit organizations that are grant applicants. Has that booklet now been made available to grant applicants as recommended by the Office of the Inspector General?

Ms. ALEXANDER. No, Senator.

Senator HUTCHINSON. The report stated a year ago that the recommendation had not yet been implemented; so another year has passed, and that recommendation has not yet been implemented?

Ms. ALEXANDER. If you would excuse me for a moment, I will ask my general counsel. [Pause.] Senator, when I had to impose the reduction in force in the agency, which reduced the staff by almost 45 percent, I had to impose a reduction in the Inspector General's Office as well, and I think that they only have a staff of two now; they are not able to handle the workload, as I understand it.

Senator HUTCHINSON. Well, we have submitted the Inspector General's report for the record, and that report says that they pro-

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vided a draft of the booklet that they thought would be appropriat and helpful for grantees to have in hand. They were very, very cri ical, as you know, of the lack of accountability within the grar process. So it is difficult, when I am assured that the NEA is nc funding bad projects, they are not funding projects that are goin to be offensive to the American people, or whatever—I do not thin there is any way for you to really know what you are funding, ac cording to the Inspector General's report. But here now, we hav gone more than a year, in which they provided a draft—or at leas that is what their report said—and it seems to me that that woul have been a very simple thing and would have, in the long rur saved enormous amounts of money had it been provided to grar applicants. And I think this is all too typical of the kinds of thing that we see in the agency.

Ms. ALEXANDER. Senator, if I may get back to you on this, I ar not totally knowledgeable about what you are talking about wit the Inspector General booklet, and I would like to answer you question later.

Senator HUTCHINSON. That would be fine; I appreciate that.

Mr. Chairman, I know we have another panel, and I have take a lot of time, but I do have additional questions which I would lik to submit to Ms. Alexander for her response in writing within th next week, with your permission.

The CHAIRMAN. You certainly have that right, and I intend t submit my own questions as well, so as not to take up more time

Senator HUTCHINSON. Thank you.

Ms. ALEXANDER. Mr. Chairman, may I just respond to a fev things that the Senator addressed?

The CHAIRMAN. You certainly may.

Ms. ALEXANDER. Let me suggest an analogy here with regard t the arts. You are correct that Arkansas received very little in th way of awards and dollars this year. Again, they would have re-ceived more, of course, had we had the budget that we had before. However, an analogy that might be appropriate is that there are apples grown in practically every State of the United States, but there are few States that have the right conditions for nurturing and developing apple trees; and then, they are distributed al throughout the Nation.

The same is true of the arts. The talent pools, the areas of nur-turing and development of artists tend to be located in a few States—but there are artists everywhere.

Now, with regard to Arkansas, we do have a lot of awards that are made in New York and other States that, then, our organiza-tions tour to Arkansas. For example, we have our Mayors' Institute on City Design, and I know that some of your mayors in Arkansas, of Little Rock and another city there, also participated in that.

There are many ways that Arkansas is the beneficiary of NEA grants that are not necessarily direct grants but are the result of touring, broadcast impact—for example, WHYY gets "Fresh Air" with Terry Gross in Little Rock and Fayetteville, and things like that.

Senator HUTCHINSON. Mr. Chairman, if I might just respond, I do object to the characterization of my State and to I guess what I could only call "trickle-down arts economics," by sending the money to the large cities and hoping some of it makes it to Arkansas.

We submitted 12 arts applications. I think you have boasted in your publications of your willingness to support Native art, folk art. Arkansas is rich in culture and in arts, and to say, or to imply, that there are just not enough apples grown in Arkansas to provide more than $410,000, when I see single museums all over this country, for single projects, receiving grants larger than that, does not convince this Senator.

Ms. ALEXANDER. Senator, I did not mean to imply that Arkansas does not have wonderful arts; indeed, it does. I have visited your State several times, and I know exactly all the wonderful arts in the State. I also would point out that we have a very large initiative in partnership with the States to develop folk arts in every, single State in a solid infrastructure, and of course, Arkansas is one of those as well.

Senator HUTCHINSON. I would only accept your own characterization—Arkansas did not do very well by the NEA.

The CHAIRMAN. I would only point out that there is only about $70 million to distribute among 50 States, so if you go on a per capita basis, I expect you probably did——

Senator DODD. In fact, you did not get much of a reduction. You went from $440,000 in 1996 to about $410,000.

Senator HUTCHINSON. Proof that we did poorly both years.

Senator DODD. And then, the year before——

Senator HUTCHINSON. I think it would be very interesting to look at the per capita breakdown, but I would also point out that the purpose of the hearing today as I understand it is arts education, making arts education available in rural areas and inaccessible areas, which was the primary mission of the NEA when it was established.

So that regardless of what the per capita might be, if our goal is to make art and culture and performing arts available to those who do not readily have access to them, then I would say that States like Arkansas should be receiving far more than their per capita share.

Senator DODD. Well, I suspect that next year, you will, to tell you the truth. [Laughter.] I was frightened to death we were going to find out that Arkansas got all the money. [Laughter.]

The CHAIRMAN. Senator DeWine?

Senator DEWINE. Mr. Chairman, I was going to forego questions, and I will forego questions, but the last series of questions prompts me to restate what I stated 2 years ago, and I would just like to State it again publicly. And Ms. Alexander and I talked about this in my office before, and we talked about in the committee before.

I believe that your priority should be the underserved populations in this country. I think it should be children, and I think it should be education, and I am going to continue to think that. And I realize—I have seen your testimony, and we have talked about this before—but I think the more this can be emphasized, the happier at least this Senator will be.

I think that in a time of finite resources, even if you had had the entire funding that you wanted last time, the resources are obviously still finite. I just believe that this is really the pr[illegible]le for the National Endowment for the Arts, and I believe that thi where the emphasis should be.

Ms. ALEXANDER. Thank you, Senator.

The CHAIRMAN. Any response?

Ms. ALEXANDER. Indeed, we have given $7 million this yea specifically underserved, and of course, as I pointed out, a lot of other arts organizations tour or reached underserved and r areas through broadcast and other kinds of access.

The CHAIRMAN. Well, thank you.

Senator DODD. Could I just make one point, Mr. Chairman?

The CHAIRMAN. Yes, certainly.

Senator DODD. And let me say again to my friend and collea from Arkansas that I do not disagree with him at all about issue of scrutiny and look at agencies; all of them should be ex. ined, even one that is one of the smallest, if not the smallest, t I know of, anyway, in terms of Federal dollars.

I look over the years, and I do not know the exact number n but the number I have used in the last couple of years is ab 100,000 grants that have been provided by the NEA to comr nities and groups all across the country since its creation. And my count, anyway, there have been about 30, 35 controversies— pending upon who wants to count. I do not know of another age in the Federal Government where you would have that kind o ratio of performance.

It is important, obviously, when an agency gets $90, $100, $1 million, but I would hope that we might spend as much time scr nizing some of the agencies that spend billions of dollars where s gle items approximate the cost of an entire agency to fund—sin items.

So again, I am more than prepared to join in an effort to see th every agency is run well, but there is an inordinate amount of terest, I find, in this agency, for reasons that defy logic. It seer to me, when you have had the kind of track record that these age cies have had—100,000 grants, and 30 to 35 over 35 years th have been considered controversial, is a remarkable, remarkal performance level. I only wish the rest of the Federal Governme performed with the same degree of excellence that this agency h and that Members of Congress would show as much interest other agencies which consume billions of taxpayers' dollar that th seem to have in this agency, which consumes so little of it.

So again, I thank you for being here today, and I thank you bo for the tremendous job you have done.

The CHAIRMAN. Thank you both. We are going on to hear abo some educational programs. I just want to let you know how impo tant I think it is for you to take a look at what your role will b as I ask the committee to write the legislation. It seems to me th the most important thing we must do in this country is to take a vantage of good programs in education that are working, and would see your role there as being able to examine and investigat the ones that are successful so that we can replicate them and t give us information on those.

One of the most difficult problems we have in this country i finding out what works, and yet we know from the SAT score which were mentioned, the tremendous success in therapy, an

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other purposes that the arts perform in the schools, that we have got to identify and examine these arts programs, and the same with the humanities. We must try to give guidance to people as to how to maximize the utilization of the arts and humanities in the schools in order to help us bring the education levels up.

I am speaking in particular about the so-called forgotten half, those young people, not the college-bound student, who seem to participate in arts programs, but also those who are not college-bound. These students are in need of help in understanding the relevance of education to their lives and the importance of what can happen to them if they become involved in such things as music and art. Arts education can open up vistas for them, either to be more appreciative of life itself or, actually, helping them along a career path.

So we will go forward and talk to the next panel in hope of more fully understanding how we can assist our young people as they go forward in their lives, starting at the earliest of ages. So I am sure you will assist me on this important issue.

I have a number of questions for you also, for which I would appreciate answers in writing.

Thank you so much for coming, and Senator Hutchinson, I thank you for bringing a perspective to this hearing which is important, and I mean that sincerely. I want all of our members to understand that there is a division of opinion on these things, and I hope we can work out a consensus.

I happen to agree with Senator Dodd; I think it is important that we find a way to make this a true endowment. That is why I think it is vitally important that we have a reauthorization so that we can move forward, rather than continuing to depend on the appropriations process to maximize utilization of the resources that we have.

Thank you very much.

Ms. ALEXANDER. Thank you very much, Chairman Jeffords.

The CHAIRMAN. On our next panel, the witnesses will tell us about educational programs that involve the arts and the humanities. I think this is an excellent panel. I am looking forward to their testimony, and I think it is a very important panel for us to listen to.

The first witness is Ms. Alicia Dandridge. She is a 6th grade teacher at the Marie Reed Learning Center in Washington, DC, and she is accompanied this morning by two of her former students, Juanita Beasley and Kessia Cruz, who will tell us about their experiences with the Encore Furniture Company. I have been there, and I was very impressed.

Senator DeWine, I believe you have a witness you would like to introduce.

Senator DEWINE. I do. Thank you very much, Mr. Chairman.

It is my pleasure to introduce to our committee a friend of mine, Jeff Hooper. Jeff and I both grew up in the small village of Yellow Springs in the southwestern part of Ohio.

Jeff is the artistic director and founder of Mad River Theater Works. Mad River Theater Works is a group that has taken plays across this country and particularly throughout the State of Ohio to communities that really are underserved, communities that

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would not have the opportunity to see these plays but for what Jeff and his team have done.

I have had the opportunity on two occasions to take my children to his plays, and my only regret is that I have not had the chance to do that in the last couple of years—maybe we can rectify that this summer.

The other thing that Jeff and his team at Mad River Theater Work do is they go out for 2 or 3 or 4 weeks per year and go into communities and into schools and work with young people, young people who may be artists of the future, who are trained and help work to put on plays. That is, I think, a great outreach to the community and something that is very, very important.

The plays that Mad River Theater Works produces are often local history, so that when people attend these plays, they see in a sense themselves or their ancestors, and they see their local history. So people are not only having the great experience of seeing a live play right in their home community, but often they see their own local history as well.

So, Jeff, thank you very much for what you have done. We look forward to your testimony.

The CHAIRMAN. Thank you, Senator DeWine.

Dr. Ayers, Senator Warner wanted to be here, but as often happens with this particular subject, the time goes by too fast and he is unable to be here to introduce you.

Dr. Ayers is a professor of history at the University of Virginia. He recently received a grant from the NEH for a technology and education project entitled "Valley of the Shadow Project," a digital archive of Northern and Southern community life in the era of the Civil War.

And finally, my special witness, Dr. Swenson. Victor Swenson is executive director of the Vermont Council on the Humanities. It is a pleasure to have you here, Victor. The Vermont Council is a national leader in using the humanities to foster innovative solutions to the problem of illiteracy. I will just let people know if they are not aware that we have about 20 million people in this country who are totally illiterate, and about one-third of our population is functionally illiterate.

I look forward to hearing from you about your newest initiative, which has excited us in Vermont, to tackle this very, very difficult problem.

Let us start with Dr. Ayers, please.

STATEMENTS OF EDWARD L. AYERS, PROJECT DIRECTOR, VALLEY OF THE SHADOW PROJECT, AND HUGH P. KELLY PROFESSOR OF HISTORY, UNIVERSITY OF VIRGINIA, CHARLOTTESVILLE, VA; JEFF HOOPER, PRODUCING ARTISTIC DIRECTOR, MAD RIVER THEATER WORKS, WEST LIBERTY, OH; ALICIA B. DANDRIDGE, SIXTH GRADE TEACHER, MARIE H. REED COMMUNITY LEARNING CENTER, ACCOMPANIED BY JUANITA BEASLEY AND KESSIA CRUZ, FORMER STUDENTS; AND VICTOR R. SWENSON, EXECUTIVE DIRECTOR, VERMONT COUNCIL ON THE HUMANITIES, MORRISVILLE, VT

Mr. AYERS. Thank you very much for giving us a chance to show you just one of the things that the National Endowment for the

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COMPILATION

OF THE

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

MUSEUM SERVICES ACT

ARTS AND ARTIFACTS INDEMNITY ACT

As Amended Through December 31, 1991

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED SECOND CONGRESS
SECOND SESSION

August 4, 1992

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WILLIAM D. FORD, *Chairman*

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National Foundation on the Arts and the Humanities Act of 1965

(P.L. 89–209)

AN ACT To provide for the establishment of the National Foundation on the Arts and the Humanities to promote progress and scholarship in the humanities and the arts in the United States, and for other purposes.

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

SHORT TITLE

Section 1. This Act may be cited as the "National Foundation on the Arts and the Humanities Act of 1965".

(20 U.S.C. 951, note) Enacted Sept. 29, 1965, P.L. 89–202, sec. 1, 79 Stat. 845; amended May 31, 1984, P.L. 98–306, sec. 2, 98 Stat. 223; amended Dec. 20, 1985, P.L. 99–194, sec. 101, 99 Stat. 1332.

DECLARATION OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares the following:

(1) The arts and the humanities belong to all the people of the United States.

(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

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(6) The arts and the humanities reflect the high place accorded by the American people to the nation's[1] rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities.

(20 U.S.C. 951) Enacted Nov. 5, 1990, P.L. 101–512, sec. 101, 104 Stat. 1961.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "humanities" includes, but is not limited to, the study and interpretation of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to reflecting our diverse heritage, traditions, and history and to the relevance of the humanities to the current conditions of national life.

(b) The term "the arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion de-

[1] Should be capitalized.

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sign, motion pictures, television, radio, film, video, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country.[1] and the study and application of the arts to the human environment.

(c) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, film, video, and[2] tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 5 of this Act.

(d) The term "project" means programs organized to carry out the purposes of this Act, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on the Humanities, as the case may be[3] (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

(2) for purposes of sections 5(l)[4] and 7(h) only, the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic or humanistic purpose, and (B) two-thirds of the members of the National Council on the Arts and[5] the National Council on the Humanities, as the case may be, (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

(e) The term "group" includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

(f) The term "workshop" means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

(g) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Co-

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[1] Error in amendment made by section 102(a)(1) of Public Law 101–512. The period should be stricken, and a comma should be inserted.

[2] So in original. Should strike "and".

[3] Should insert a comma.

[4] Amendment made by section 102(b)(3)(B) of Public Law 101–512 striking "5(1)" cannot be executed. Should amend to strike "5(l)" and insert "5(p), 7(c)(10)".

[5] Error in amendment made by section 103(2)(C) of Public Law 99–194. Should strike "and" and insert "or".

lumbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(h) The term "local arts agency" means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations, for the benefit of the community as a whole.

(i) The term "developing arts organization" means a local arts organization of high artistic promise which—

(1) serves as an important source of local arts programming in a community; and

(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(j) The term "determined to be obscene" means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

(k) The term "final judgment" means a judgment that is either—

(1) not reviewed by any other court that has authority to review such judgment; or

(2) is not reviewable by any other court.

(l) The term "obscene" means with respect to a project, production, workshop, or program that—

(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

(3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

(20 U.S.C. 952) Enacted Sept. 29, 1965, P.L. 89–209, sec. 3, 79 Stat 845; amended June 18, 1968, P.L. 90–348, secs. 1, 7, 82 Stat. 184, 187; amended July 20, 1970, P.L. 91–346, sec. 3, 84 Stat. 443; amended Oct. 19, 1973, P.L. 93–133, sec. 2(a)(2), 87 Stat. 462; amended Dec. 4, 1980, P.L. 96–496, sec. 2, 94 Stat. 2583; amended Dec. 20, 1985, P.L. 99–194, sec. 103, 99 Stat. 1332; amended Nov. 5, 1990, P.L. 101–512, sec. 102, 104 Stat. 1962.

ESTABLISHMENT OF A NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SEC. 4. (a) There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the "Foundation"), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities, a Federal Council on the Arts and the Humanities, and an Institute of Museum Services.

(b) The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this Act.

(c) In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(20 U.S.C. 953) Enacted Sept. 29, 1965, P.L. 89–209, sec. 4, 79 Stat. 84[illegible]; amended May 31, 1984, P.L. 98–306, sec. 4, 98 Stat. 223; amended Dec. 20, 1985, P.L. 99–194, sec. 104, 99 Stat. 1333.

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE ARTS

SEC. 5. (a) There is established within the Foundation a National Endowment for the Arts.

(b)(1) The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years and the Chairperson shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups, or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards of authenticity or tradition, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

(4) projects and productions which have substantial artistic and cultural significance and that reach, or reflect the culture of, a minority, inner city, rural, or tribal community;

(5) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;

(6) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(7) programs for the arts at the local level;

(8) projects that enhance managerial and organizational skills and capabilities;

(9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio,

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video, and similar media, for the purpose of broadening public access to the arts; and

(10) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

(d) No payment shall be made under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that—

(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

(2) applications are consistent with the purposes of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this Act from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.

(e) The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(f) Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of the Internal Revenue Code of 1986.

(g)(1) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of

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grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in section 5(c) of this Act, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairperson and accompany such applications with a plan which the Chairperson finds—

(A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c);

(C) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may from time to time require, including a description of the progress made toward achieving the goals of the State plan;

(D) provides—

(i) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow all groups of artists, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(ii) a summary of such recommendations and the State agency's response to such recommendations; and

(E) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and

(iii) a description of projects and productions receiving financial assistance under this subsection that exist or are being developed to secure wider participation of artists, artists' organizations, and arts organizations identified under clause (i) of this subparagraph or that address the availability of the arts to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are in-

sufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairperson for making grants under this subsection to States and regional groups,[1] and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairperson the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairperson in equal amounts[1]

but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairperson in effect on the first day of such fiscal year to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: *Provided,* That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (3)(B), the term "State" includes, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out section 5(c).

(h) Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(1) a group is not complying substantially with the provisions of this section;

[1] Should be amended to insert a semicolon.

(2) a State agency is not complying substantially with terms and conditions of its State plan approved under this section; or

(3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they were allotted or paid.

the Chairperson shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application—

(1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;

(2) a timetable for the completion of such proposed project, production, workshop, or program;

(3) an assurance that the applicant will submit—

(A) interim reports describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this Act and the conditions of receipt of such assistance;

(B) if such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this Act and the conditions of receipt of such assistance; and

(C) not later than 90 days after—

(i) the end of the period for which the applicant receives such assistance; or

(ii) the completion of such project, production, workshop, or program;

whichever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this Act and the conditions of receipt of such assistance; and

(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this Act.

(j) The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that—

(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

(k) The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this Act that apply with respect to such assistance, including regulations relating to accounting and financial matters.

(l)(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment;[1] no subsequent financial assistance be provided under this section to such recipient.

(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.

(m) It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (n) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and proce-

[1] Error in amendment made by section 103(h) of Public Law 101–512. Should strike the semicolon and insert a comma.

dures as the Secretary of Labor may deem necessary or appropriate to carry out the provisions of this subsection.

(n) It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act[1], as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(o) The Chairperson shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs. The Chairperson may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.

(p)(1) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality by—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups and local arts agencies to promote effective arts activity at the State and local level, including—

(i) support of professional artists in community based residencies;

(ii) support of rural arts development;

[1] Should strike "Davis-Bacon Act" and insert "Act of March 3, 1931, ch. 411, 46 Stat. 1494 (commonly known as the 'Davis-Bacon Act')".

(iii) support of and models for regional, statewide, or local organizations to provide technical assistance to cultural organizations and institutions;

(iv) support of and models for visual and performing arts touring; and

(v) support of and models for professional staffing of arts organizations and for stabilizing and broadening the financial base for arts organizations;

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(F) fostering greater citizens involvement in planning the cultural development of a community; and

(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.

(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

(i) raising the artistic capabilities of developing arts organizations by providing for—

(I) artistic and programmatic development to enhance artistic capabilities, including staff development; and

(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).

(3) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(4) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Arts shall have the same authority as is established in subsection (c) and section 10.

(q) The Chairperson of the National Endowment for the Arts shall, in ongoing consultation with State and local agencies, relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields, trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. Such system shall be used, along with a summary of the data submitted with State plans under subsection (g), to prepare a periodic report on the state of the arts in the Nation. The state of the arts report shall include a description of the availability of the Endowment's programs to emerging, rural, and culturally diverse artists, arts organizations, and communities and of the participation by such artists, organizations, and communities in such programs. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, not later than October 1, 1992, and quadrennially thereafter.

(20 U.S.C. 954) Enacted Sept. 29, 1965, P.L. 89–209, sec. 5, 79 Stat. 846; amended Sept. 11, 1967, P.L. 90–83, sec. 10(b), 81 Stat. 223; amended June 18, 1968, P.L. 90–348, secs. 2, 3, 82 Stat. 185; amended July 20, 1970, P.L. 91–346, secs. 4, 5(a)(1), 6, 7, 84 Stat. 443, 455; amended Oct. 19, 1973, P.L. 93–133, secs. 2(a)(3), (4), 87 Stat. 462; amended Dec. 24, 1973, P.L. 93–198, sec. 421, 87 Stat. 789; amended Oct. 8, 1976, P.L. 94–462, secs. 101, 102, 90 Stat. 471; amended Dec. 4, 1980, P.L. 96–496, secs. 102, 109(a), (b), 94 Stat. 2583, 2591; amended Dec. 20, 1985, P.L. 99–194, sec. 105, 99 Stat. 1333; amended Nov. 5, 1990, P.L. 101–512, secs. 103(a)–(i)(1), 104, 104 Stat. 1963, 1966.

ACCESS TO THE ARTS THROUGH SUPPORT OF EDUCATION

SEC. 5A. (a) The purposes of this section are—

(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;

(2) to develop and stimulate research to teach quality education in the arts; and

(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

(b) The Chairperson of the National Endowment for the Arts,[1] is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organization, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as[2] projects that will—

(1) promote and improve the availability of arts instruction for American youth and life-long learning in the arts;

(2) enhance the quality of arts instruction in programs of teacher education;

(3) develop arts faculty resources and talents;

(4) support and encourage the development of improved curriculum materials in the arts;

(5) improve evaluation and assessment of education in the arts programs and instruction;

[1] Error in original. Should strike the comma.
[2] Error as enacted by Public Law 101–512. Should strike "as" and insert "and".

(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business colleges and universities;

(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.

(c) In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.

(20 U.S.C. 954a) Enacted Nov. 5, 1990, P.L. 101–512, sec. 105, 104 Stat. 1967.

NATIONAL COUNCIL ON THE ARTS

SEC. 6. (a) There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the "Council").

(b) The Council shall be composed of the Chairperson of the National Endowment for the Arts, who shall be Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

(1) from among private citizens of the United States who (A) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts and (B) have established records of distinguished service, or achieved eminence, in the arts;

(2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

(3) so as collectively to provide an appropriate distribution of membership among the major art fields.

The President is requested in the making of such appointments, to give consideration to such recommendations as may, from time to time, be submitted to the President by leading national organizations in these fields. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts. Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.

Amended 1997 by Public Law 105-83

(c) Each member shall hold office for a term of six years and the terms of office shall be staggered. The terms of office of all Council members shall expire on the third day of September in the year of expiration. No member shall be eligible for reappointment during the two-year period following the expiration of such member's term. Any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was ap-

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PLS. Refer to amended Section 6, which follows pointed. Notwithstanding any other provision of this subsection, a member shall serve after the expiration of such member's term until such member's successor takes office.

(d)(1) The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum. All policy meetings of the Council shall be open to the public.

(2) The Council shall—

(A) create written records summarizing—

(i) all meetings and discussions of the Council; and

(ii) the recommendations made by the Council to the Chairperson; and

(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.

(e) Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(f) The Council shall advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, duties, or responsibilities under this Act, and review applications for financial assistance under this Act and make recommendations to the Chairperson with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant. The Council shall make recommendations to the Chairperson concerning—

(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 5 that are determined by panels under section 10(c) to have artistic excellence and artistic merit; and

(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.

The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application. The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation. In the case of an application involving $30,000 or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of an expressed and direct delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council, and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that

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fiscal year pursuant to subparagraph (A) of paragraph (1) of section 11(a).

(20 U.S.C. 955) Enacted Sept. 29, 1965, P.L. 89-209, sec. 6, 79 Stat. 849; amended June 18, 1968, P.L. 90-348, sec. 4, 82 Stat. 185; amended July 20, 1970, P.L. 91-346, sec. 5(b), 84 Stat. 144; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(5), 87 Stat. 463; amended Oct. 8, 1976, P.L. 94-462, sec. 103(a), 90 Stat. 1971; amended Dec. 4, 1980, P.L. 96-496, sec. 103, 94 Stat. 2584; amended May 31, 1984, P.L. 98-306, sec. 5, 98 Stat. 224; amended Dec. 20, 1985, P.L. 99-194, sec. 106, 99 Stat. 1335; amended Nov. 5, 1990, P.L. 101-512, sec. 106, 104 Stat. 1968.

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 7. (a) There is established within the Foundation the National Endowment for the Humanities.

(b)(1) The Endowment shall be headed by a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years, and the Chairperson shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate non-profit institutions selected by the recipient of such aid, for stated periods of time);

(4) initiate and support programs and research which have substantial scholarly and cultural significance and that reach, or reflect the diversity and richness of our American cultural heritage, including the culture of[1], a minority, inner city, rural, or tribal community;

(5) foster international programs and exchanges;

(6) foster the interchange of information in the humanities;

(7) foster, with groups, education in, and public understanding and appreciation of the humanities;

(8) support the publication of scholarly works in the humanities;

[1] Should strike the comma.

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(9) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons; and

(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.

In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.

(d) The Chairperson shall coordinate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs.

(e) The total amount of any grant under subsection (c)(3) to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.

(f)(1) The Chairperson, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date the State agency is established as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairperson finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;

(ii) provides that the chief executive officer of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive officer has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph;

(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairman[1] may require, including a description of the progress made toward achieving the goals of the State plan;

(vii) provides—

(I) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(II) a summary of such recommendations and of the response of the State agency to such recommendations; and

(viii) contains—

(I) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(II) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(III) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under subclause (I) of this clause or that address the availability of the humanities to al'

[1] Should strike "Chairman" and insert "Chairperson".

people or communities identified under subclause (II) of this clause.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures that six members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 25 per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairperson. Each such application shall be accompanied by a plan which the Chairperson finds—

(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c);

(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

(G) establishes procedures to assure public access to information relating to such activities;

(H) provides that such grant recipient will make reports to the Chairperson, in such form, at such times, and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the plan;

(I) provides—

(i) assurances that the grant recipient has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the plan; and

(ii) a summary of such recommendations and of the response of the grant recipient to such recommendations; and

(J) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(iii) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under clause (i) of this subparagraph or that address the availability of the humanities to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairperson for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairperson; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairperson in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds $125,000, but

(ii) which does not exceed 20 per centum of such allotment,

shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairperson for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term "regional group" means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term "State" and the term "grant recipient" include, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c).

(7) Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(A) a group or grant recipient is not complying substantially with the provisions of this subsection;

(B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan or grant recipient application approved under this subsection; or

(C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(8) Except as provided in paragraphs (4), (5), and (6), the Chairperson may not make grants under this subsection to more than one entity in any State.

(g) It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid. without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection.

(h)(1) The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(E) fostering greater citizen involvement in planning the cultural development of a community; and

(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(B) The Chairperson, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 11(a)(3), unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment for the Humanities for the purpose of this subsection.

(3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Humanities shall have the same authority as is established in section 7(c) and section 10.

(i) The Chairperson may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.

(j) It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State, State agency, or entity receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act[1], as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(k) The Chairperson of the National Endowment for the Humanities shall, in ongoing consultation with State and local agencies, other relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the humanities, scholars, educational and cultural groups, and their audiences. Such system shall include cultural and financial trends in the various humanities fields, trends in audience participation, and trends in humanities education on national, regional, and State levels. Such system shall be used, along with a summary of the data submitted with plans under subsection (f), to prepare a report on the state of the humanities in the Nation. The state of the humanities report shall include a description of the availability of the Endowment's programs to emerging and culturally diverse scholars, cultural and educational organizations, and communities and of the participation of such scholars, organizations, and communities in such programs. The state of the humanities report shall be submitted to the President and the Congress, and provided the States, not later than October 1, 1992, and quadrennially thereafter.

(l) Any group shall be eligible for financial assistance under this section only if—

(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

[1] Should strike "Davis-Bacon Act" and insert "Act of March 3, 1931, ch. 411, 46 Stat. 1494 (commonly known as the 'Davis-Bacon Act')".

(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of the Internal Revenue Code of 1986.

(m) The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.

(20 U.S.C. 956) Enacted Sept. 29, 1965, P.L. 89–209, sec. 7, 79 Stat. 850; amended Sept. 11, 1967, P.L. 90–83, sec. 10(b), 81 Stat. 223; amended July 20, 1970, P.L. 91–346, sec. 8, 84 Stat. 445; amended Oct. 19, 1973, P.L. 93–133, sec. 2(a)(6), 87 Stat. 464; amended Oct. 8, 1976, P.L. 94–462, secs. 104(a), 105, 301(b), 90 Stat. 1971, 1974, 1979; amended Dec. 4, 1980, P.L. 96–496, secs. 104, 109(c), 94 Stat. 2588, 2591; amended Dec. 20, 1985, P.L. 99–194, sec. 107, 99 Stat. 1335; amended Nov. 5, 1990, P.L. 101–512, sec. 107, 104 Stat. 1969.

ESTABLISHMENT OF THE NATIONAL COUNCIL ON THE HUMANITIES

SEC. 8. (a) There is established in the National Endowment for the Humanities a National Council on the Humanities.

(b) The Council shall be composed of the Chairman [1] of the National Endowment on [2] the Humanities, who shall be the Chairman [1] of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

(c) Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of such member's term. Notwithstanding any other provisions of this subsection, a member shall serve after the

[1] The amendment made by P.L. 99–194, sec. 108(1)(A), 99 Stat. 1338, changing "Chairman" to "Chairperson" failed, by referring to the "Endowment for the Humanities" instead of the "Endowment on the Humanities".

[2] Inaccurate reference. Should be "for".

expiration of such member's term until such member's successor takes office.

(d) The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Fourteen members shall constitute a quorum

(e) Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

(f) The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council: *Provided,* That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 11(a).

(20 U.S.C. 957) Enacted Sept. 29. 1965. P.L. 89–209. sec. 8. 79 Stat. 851; amended July 18, 1968, P.L. 90–348, sec. 4, 82 Stat. 186; amended July 20, 1970, P.L. 91–346, sec. 5(c), 84 Stat. 444; amended Oct. 19, 1973, P.L. 93–133, sec. 2(a)(7), 87 Stat. 464; amended Oct. 8, 1976, P.L. 94–462. sec. 103(b), 90 Stat. 1971; amended Dec. 4, 1980, P.L. 96–496, sec. 105, 94 Stat. 2587; amended May 31, 1984, P.L. 98–306, sec. 5, 98 Stat. 224; amended Dec. 20, 1985, P.L. 99–194, sec. 108, 99 Stat. 1338.

ESTABLISHMENT OF THE FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 9. (a) There is established within the Foundation a Federal Council on the Arts and the Humanities.

(b) The Council shall be composed of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Commissioner on Aging, a member designated by the Secretary of State, [1] and a

[1] The authority of the Secretary of State to designate a member is now vested in the Director of the United States Information Agency. See section 7(a)(12) of Reorganization Plan No. 2 of 1977 (91 Stat. 1636) and section 303 of the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241; 96 Stat. 291).

member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the presiding officer of the Council from among the members. The President is authorized to change the membership of the Council from time to time as the President deems necessary to meet changes in Federal programs or executive branch organization.

(c) The Council shall—

(1) advise and consult with the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;

(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;

(3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services including joint support of activities, as appropriate;

(4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;

(5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events;

(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems; and

(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.

(20 U.S.C. 958) Enacted Sept. 29, 1965, P.L. 89–209, sec. 9, 79 Stat. 851; amended July 20, 1970, P.L. 91–346, sec. 9, 84 Stat. 446; amended Oct. 19, 1973, P.L. 93–133, sec. 2(a)(8), 87 Stat. 464; amended Oct. 8, 1976, P.L. 94–462, sec. 208, 90 Stat. 1977; amended Dec. 4, 1980, P.L. 96–496, secs. 106, 109(d), 94 Stat. 2587; amended May 31, 1984, P.L. 98–306, sec. 6, 98 Stat. 224; amended Dec. 20, 1985, P.L. 99–194, sec. 109, 99 Stat. 1339; amended Nov. 5, 1990, P.L. 101–512, sec. 108, 104 Stat. 1970.

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In addition to any authorities vested in them by other provisions of this Act, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's functions shall be carried out;

(2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of

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the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 6(f) and 8(f), and may receive a gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 5(c) and 7(c);

(3) to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities;

(4) to utilize experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title 5, United States Code;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law (5 U.S.C. 73b–2 [1]) for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to section 3324 of title 31, United States Code;

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

(b)(1) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which such property is intended, and without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property.

(2) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property.

(3) For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised.

(4) For the purposes of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments

[1] Reference to section 73b–2 was made obsolete by the enactment of Public Law 89–554. Should strike "73b–2" and insert "5703".

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and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States. [1]

(c) The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 6(f). When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures—

(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

(4) to require panels—

(A) to create written records summarizing—

(i) all meetings and discussions of such panel; and

(ii) the recommendations made by such panel to the Council; and

(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

(d) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The

[1] Amendment made by section 109(8) of Public Law 101-512 cannot be executed. Should strike "For the purposes" and insert indented "(4) For the purpose".

report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

(e) The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

(f)(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by their respective Endowments under sections 5(c) and 7(c). Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.

(3) If such recipient substantially fails to satisfy the purposes for which such financial assistance is provided and the criteria specified in subsection (c)(3)(A) [1], as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and

(C) if such project, production, or program is published, require that the publication contain the following statement:

[1] The reference to section (c)(3)(A) was added by section 109(2) of Public Law 101–512 and replaced a reference to "the last sentence of subsection (a)" appearing in what was then subsection (d), added by section 110(3), Public Law 99–194. Should probably amend to strike "criteria specified in subsection (c)(3)(A)" and insert "requirements of paragraph (2)(A)".

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"The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities.".

(20 U.S.C. 959) Enacted Sept. 29, 1965, P.L. 89-209, sec. 10, 79 Stat. 852; amended June 18, 1968, P.L. 90-348, sec. 5, 82 Stat. 186; amended July 20, 1970, P.L. 91-346, sec. 5(a)(3), 84 Stat. 443; amended Oct. 19, 1973, P.L. 93-133, sec. 2(a)(9), (10), 87 Stat. 465; amended Dec. 4, 1980, P.L. 96-496, sec. 107, 94 Stat. 2588; amended Dec. 20, 1985, P.L. 99-194, sec. 110, 99 Stat. 1339; amended Nov. 5, 1990, P.L. 101-512, sec. 109, 104 Stat. 1970.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. (a)(1)(A)(i) For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(ii) For fiscal years—

(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 5(g).

(iii) For fiscal years—

(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 5(p)(2) (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.

(B) For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 7(f).

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (10) of section 5(c);

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

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(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees and subgrantees, for use in carrying out activities under paragraph (1) through paragraph (10) of section 7(c);

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 5(p)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 5(p)(1);

except that the amounts so appropriated to such Endowment shall not exceed $15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 7(h)(1);

except that the amounts so appropriated to such Endowment shall not exceed $15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(C) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.

(4) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be con-

sistent with the requirements of section 5(e), section 5(l)(2)[1], section 7(f), and section 7(h)(2), as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this Act.

(b)(1) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this Act, appropriations authorized under subsection (a) are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

(c)(1) There are authorized to be appropriated to the National Endowment for the Arts $21,200,000"[2] for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this Act, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $50,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this Act, or any other program for which the Chairperson of the National Endowment for the Humanities is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $50,000.

(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

(A) $167,060,000 for fiscal year 1986,

(B) $170,206,400 for fiscal year 1987, and

(C) $177,014,656 for fiscal year 1988.

(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

(A) $139,878,000 for fiscal year 1986,

(B) $145,057,120 for fiscal year 1987, and

(C) $150,859,405 for fiscal year 1988.

(e) No grant shall be made to a workshop (other than a workshop conducted by a school, college, or university) for a production for which direct or indirect admission charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.

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[1] Amendment made by section 103(i)(2)(B) of Public Law 101–512 striking "section 5(l)(1)" cannot be executed. Should strike "section 5(l)(2)" and insert "section 5(p)(2)".

[2] Error in amendment made by section 110(f) of Public Law 101–512. Should strike the close quotation marks.

(f)(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 5A.

(2) In each fiscal year, the amount made available to carry out section 5A shall not exceed $40,000,000, in the aggregate.

(3) Funds made available to carry out section 5A shall remain available until expended.

(20 U.S.C. 960) Enacted Sept. 29, 1965, P.L. 89–209, sec. 11, 79 Stat. 853; amended June 18, 1968, P.L. 90–348, sec. 6, 82 Stat. 167; amended July 20, 1970, P.L. 91–346, secs. 5(a)(4), 12, 84 Stat. 444; amended Oct. 19, 1973, P.L. 93–133, sec. 2(a)(11), 87 Stat. 465; amended Oct. 8, 1976, P.L. 94-462, secs. 106(a), 302, 401(b), 90 Stat. 1974, 1980, 1981; amended Oct. 19, 1976, P.L. 94–555, sec. 219(b), 90 Stat. 2629; amended Dec. 4, 1980, P.L. 96-496, sec. 108, 94 Stat. 2589; amended May 31, 1984, P.L. 98–306, sec. 7, 98 Stat. 224–225; amended Dec. 20, 1985, P.L. 99–194, sec. 11, 99 Stat. 1342; amended July 9, 1986, P.L. 99–362, section 1, 99 Stat. 769; amended Nov. 5, 1990, P.L. 101–512, secs. 103(i)(2), 110, 104 Stat. 1966, 1972.-

Arts and Artifacts Indemnity Act

(P.L. 94–158)

AN ACT To provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Arts and Artifacts Indemnity Act".

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94–158, sec. 1, 89 Stat. 844.

FEDERAL COUNCIL

SEC. 2. (a) The Federal Council on the Arts and Humanities (hereinafter in this Act referred to as the "Council"), established under section 9 of the National Foundation on the Arts and the Humanities Act of 1965, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 3—

(1) in accordance with the provisions of this Act; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this Act and, consistent with such purposes, to protect the financial interest of the United States.

(b)(1) For purposes of this Act, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5, United States Code.

(2) For purposes of this Act, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of[1] Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94–158, sec. 2, 89 Stat. 844; amended Dec. 20, 1985, P.L. 99–194, sec. 301, 99 Stat. 1345.

ELIGIBLE ITEMS

SEC. 3. (a) The Council may make an indemnity agreement under this Act with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

[1] So in original. Should be "on".

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(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State [1] or his designee as being in the national interest.

(b)(1) An indemnity agreement made under this Act shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.

(2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(20 U.S.C. 972) Enacted Dec. 20, 1975, P.L. 94–158, sec. 3, 89 Stat. 844; amended Dec. 20, 1985, P.L. 99–194, sec. 302, 99 Stat. 1345.

APPLICATION

SEC. 4. (a) Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this Act shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) An application under subsection (a) shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 3(a); and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this Act, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(20 U.S.C. 973) Enacted Dec. 20, 1975, P.L. 94–158, 89 Stat. 845.

INDEMNITY AGREEMENT

SEC. 5. (a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 4, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this Act, the Council shall, after approval of the application as provided in subsection (c) of section 4, make an indemnity agreement.

[1] The certification authority of the Secretary of State and the Secretary's designee is now vested in the Director of the United States Information Agency and the Director's designee. See section 7(a)(10) of Reorganization Act No. 2 of 1977 (91 Stat. 1636) and section 303 of the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97–241; 96 Stat. 291).

(b) The aggregate of loss or damage covered by indemnity agreements made under this Act shall not exceed $3,000,000,000, at any one time.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $300,000,000.

(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered;

(3) not less than $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;

(4) not less than $125,000,000 but less than $200,000 [1], then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

(5) $200,000,000 or more, then coverage under the Act shall extend only to loss or damage in excess of the first $200,000, of loss or damage to items covered.

(20 U.S.C. 974) Enacted Dec. 20, 1975, P.L. 94–158, sec. 5, 89 Stat. 845; amended Dec. 4, 1980, P.L. 96–496, secs. 301, 302, 94 Stat. 2593; amended Dec. 20, 1985, P.L. 99–194, sec. 303, 99 Stat. 1345; amended Dec. 22, 1987, P.L. 100–202, sec. 101, 101 Stat. 13329–213,1329–2219; amended Nov. 5, 1990, P.L. 101–512, sec. 301, 104 Stat. 1976.

REGULATIONS

SEC. 6. (a) The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 5, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 5, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(20 U.S.C. 975) Enacted Dec. 20, 1975, P.L. 94–158, sec. 6, 89 Stat. 845.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out

[1] Error in amendment made by section 301(b)(2)(C) of Public Law 101–512. Should amend to strike "$200,000" and insert "$200,000,000".

its functions under this Act, and (2) to pay claims certified pursuant to section 6(b).

(20 U.S.C. 976) Enacted Dec. 20, 1978, P.L. 94–158, sec. 7, 89 Stat. 846.

REPORT

SEC. 8. The Council shall report annually to the Congress (1) all claims actually paid pursuant to this Act during the preceding fiscal year, (2) pending claims against the Council under this Act as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year.

(20 U.S.C. 977) Enacted Dec. 20, 1975, P.L. 94–158, sec. 8, 89 Stat. 846.

EFFECTIVE DATE

SEC. 9. This Act shall become effective 30 days after the date of the enactment of this Act.

(20 U.S.C. 971, note) Enacted Dec. 20, 1975, P.L. 94–158, sec. 9, 89 Stat. 846.-

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