

**Files of Melanne Verveer,
Assistant to the President and Chief of Staff to the First Lady
Box 28: Files**

Archived from OEOB 100 by Eric Woodard on Dec. 22, 2000

Miscellaneous

Mongolia

Montana

Morocco

Mosaic Foundation

Mother Theresa

Moslem

Muslim & Women

Multicultural Placement

Kate Millany

Minimum Wage

Ryan Moore

Mother Theresa Project

Mother Theresa

Music Museum

Muslims

Namibia

NASA

National Archive

National Democratic Institute

ENCLOSURES FILED OVERSIZE ATTACHMENTS

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NANA 17248

National Center for Truth Law

National Council Arts
- Arts

National Cultural Alliance

NAA v. NEA
- Arts

Navy

NEA
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Dear Senator:

The statement below in support of the National Endowment for the Arts and Jane Alexander, President Clinton's nominee to chair the agency, is currently being circulated in the arts community. To date the following artists, arts professionals and arts supporters have endorsed this statement.

**STATEMENT IN SUPPORT OF THE NATIONAL ENDOWMENT FOR
THE ARTS AND JANE ALEXANDER**

Since 1965, the National Endowment for the Arts has supported artistic excellence and made the arts available to more and more Americans with each passing year. Through this robust agency's efforts, the cultural life of our nation is expanding and improving with new dance, design, theater, music, painting, sculpture, novels, and poetry being created each day. Folk art, ethnic traditions, historic buildings, film and visual art masterworks now are being preserved for the ages. Millions of children each year are being taught about and participate in the arts, and millions of viewers annually watch great performances and powerful dramas on public television. Physically challenged Americans now have greater access to theaters and museums. All of us are richer for the work of this vital agency dedicated to American creativity.

Too often over the past years, the Endowment has been unfairly attacked over a handful of grants. Rather than focus on grants that have caused controversy, we should look instead to the stellar record of the Arts Endowment. Nearly 100,000 grants have been awarded, with this investment in our culture paying tremendous dividends culturally, socially and economically. Not only is the quality of our community life enhanced by the arts, but the arts create jobs, expand the tax base, increase tourism, and attract business.

The choice of Jane Alexander, a working artist, to head the Arts Endowment signals a new beginning. A long-time veteran of the stage and screen, Ms. Alexander's commitment to artistic excellence is exemplary. Just as we would trust a scientist to head the National Science Foundation, a physician to serve as Surgeon General, or a soldier to serve on the Joint Chiefs of Staff, we can trust a working artist to bring to the agency knowledge of the complex process of creativity from conception to execution of an idea. With special interest groups poised to attack the Endowment by distorting its record, Ms. Alexander will get politics out of the agency and stand above the fray as a distinguished and effective spokesperson for the arts for all Americans.

We, the undersigned, support the mission of the National Endowment for the Arts and the nomination of Jane Alexander. While democratic processes of grant making will never be perfect, we applaud the Arts Endowment's efforts. This agency's work is integral to our economic and cultural health and the general well-being of our country. Furthermore, the arts play a crucial role in the education of our youth and life long learning, encouraging creativity and knowledge, enhancing cognitive development and instilling skills, discipline and self-esteem. We urge the government to vigorously support the National Endowment for the Arts so that the arts will continue to touch all our lives and enhance the creativity and imagination so central to our nation.

September 21, 1993

Albert, Steven J., Executive Director, Alley Theatre, Houston, TX
 Alexander, Judith Dow, Chair, Concerned Citizens for the Arts in Michigan
 Alexander, Michael, California Plaza Presents, Los Angeles, CA
 Alpaugh, Robert, Arizonans for Cultural Development
 Alter, Albert, Theatre of Human Comedy, Portland, OR
 Ambush, Benny Sato, Associate Artistic Director, American Conservatory Theater, San Francisco, CA
 Anderson, Lauren, Bravo Artist Management, Inc., Seattle, WA
 Antoniou, Irene, Board Member, Lyric Opera of Chicago
 Ashley, Eli, Managing Director, Broadway Center for the Performing Arts, Tacoma, WA
 Austin, Linda Jane, Scottsdale Center for the Arts, Scottsdale, AZ
 Baldwin, Alec, Actor; Board Member, The Creative Coalition
 Baldwin, William, Actor; Board Member, The Creative Coalition
 Barbara, Pamela, Board Member, Goodman Theatre, Chicago, IL
 Barnes, Chuck, Periwinkle Productions, Anaheim, CA
 Bechily, Maria, Trustee, Goodman Theatre, Chicago, IL
 Belcheff, Jeanne, Arizonans for Cultural Development
 Bennahum, Michael, Theatrical Agent; Board Member, The Creative Coalition
 Berger, Theodore, Executive Director, New York Foundation for the Arts, New York, NY
 Berger, Keith, Berger and Diskin Physical Theatre, Los Angeles, CA
 Bergman, Robert P., Director, Cleveland Museum of Art; Chair, American Arts Alliance
 Berlin, Kathie, Public Relations Director; MGM Board Member, The Creative Coalition
 Besen, Robert, Concert Artists Guild, New York, NY
 Bishop, André, Artistic Director, Lincoln Center Theater, New York, NY
 Bond, Tim, Artistic Director, The Group: Seattle's Multicultural Theatre, Seattle, WA
 Bradley, Janet, Tears of Joy Theatre, Vancouver, WA
 Breese, Belinda, Independent Public Relations and Marketing; Board Member, The Creative Coalition
 Brooks, Bonnie, Executive Director, Dance/USA, Washington, DC
 Brown, Blair, Actor; Co-President, The Creative Coalition
 Brown, J. Carter, Honorary Board Member, Association of Art Museum Directors
 Brunelle, Philip, Plymouth Music Series of Minnesota, Minneapolis, MN
 Brunner, Helen, Executive Director, National Association of Artists Organizations
 Buck, Robert T., Jr., Director, Brooklyn Museum
 Carden, David, Secretary of the Board, Goodman Theatre, Chicago, IL
 Carson-Dwyer, Amy, Colbert Artists, New York, NY and San Diego, CA
 Cassell, Jim, Berkely Agency, Berkely, CA
 Cebrell, Alice, Assistant Director, Light Factory Photographic Art Center
 Chaffetz, Hammond E., Kirkland and Ellis
 Chan, Kim, Manager, Dance Presentations, Washington Performing Arts Society, Washington, DC
 Channing, Stockard, Actress; Board Member, The Creative Coalition
 Chiavaroli, Linda, United Arts, Los Angeles, CA
 Christian, Andrea, National Theater for Children, Inc., San Diego, CA
 Church, Maria, City of Sierra Vista, Cultural Division, Sierra Vista, AZ
 Clayburgh, Jill, Actress; Board Member, The Creative Coalition
 Cohan, Leon S., Chair, Arts Action Alliance
 Cohen, Marvin, Arizonans for Cultural Development
 Cohn, Shelley, Executive Director, Arizona Commission on the Arts, Phoenix, AZ

Cole, Robyn Pee, Executive Director, Atlanta Theater Coalition
 Collen, Leslie, Paragon Ragtime Orchestra, Lewisburg, PA
 Collins, Stephen, Actor; Board Member, The Creative Coalition
 Cooley, Lisa, Coordinator, The Literary Network
 Covington, Claudia Carter, Literary Manager, Charlotte Festival: New Plays in America, Charlotte, NC
 Cunningham, Merce, Merce Cunningham Dance
 Deckoff, Jane, Jane Music Management, Inc., New York, NY
 Dees, James E., J. Dees Presents, San Francisco, CA
 Donnelly, Peter, Corporate Council for the Arts, Seattle, WA
 Drew, Theresa, Arizonans for Cultural Development
 Duff, Jim, Director, Brandywine River Museum, Chadds Ford, PA
 Duncan, Robert, Duncan Aviation, Lincoln, NE
 Eby, John, Corporate/Grants Liaison, Krannert Center for the Performing Arts at Univ. of Illinois
 Edelstein, Teri J., Development Director, Art Institute of Chicago
 Edwards, Kristi, Prescott College Elks Theatre, Prescott, AZ
 Elander, Teri, Missoula Children Theatre, Missoula, MT
 Farr, Susan, Executive Director, Association of Performing Arts Presenters, Washington, DC
 Fichandler, Zelda, Artistic Director, The Acting Company, New York, NY; Director, Graduate Acting Program, New York University Tisch School of the Arts
 Figman, Elliot, Executive Director, Poets and Writers, Inc.
 Fischl, Charles, Southwest Dance, Phoenix, AZ
 Fleischer, Leonard, Executive Director, The Creative Coalition
 Foard, Linda, Executive Director, Light Factory Photographic Art Center
 Freedman, Thava, Arizonans for Cultural Development
 French, Catherine, CEO, American Symphony Orchestra League, Washington, DC
 Fuchs, Michael, Chair and CEO, HBO; Board Member, The Creative Coalition
 Galati, Frank, Stage Director, Lyric Opera of Chicago
 Galvin, Pamela, Producer; Board Member, The Creative Coalition
 Gates, Jay, Director, Seattle Art Museum
 Gaudieri, Millicent Hall, Executive Director, Association of Art Museum Directors, New York, NY
 Gelff, Laya, Einstein Hemingway Management, California
 Geyer, Tom, Mark Morris Dance, New York, NY
 Gockley, David, General Director, Houston Grand Opera
 Golub, Judith, Executive Director, American Arts Alliance, Washington, DC
 Gordon, Leila, Arts Alliance of Reston
 Gotanda, Philip Kan, Playwright
 Gould, Morton, Conductor/Composer
 Grain, Merrie Carol, Consortium for Pacific Arts Cultures
 Gray, Richard, Chair, International Theatre Fest of Chicago
 Gray, Amlin, Playwright/Translator
 Greenburg, Dan, Screenwriter; Board Member, The Creative Coalition
 Haft, Steven, Producer; Board Member, The Creative Coalition
 Hall, Ann Medlin, Manatee County Cultural Alliance, Bradenton, FL
 Hall, Joan, Jenner and Block, Chicago, IL
 Hankenson, Kathy, Producers, Inc., Tampa, FL
 Harris, Leslie, Director of Public Policy, People for the American Way Action Fund

Hart, Alexandra, Chandler Center for the Arts, Chandler, AZ
 Heath, Ginger, Chair-Elect, Metrolina Theatre Association, Charlotte, NC
 Hefner, Christie, Chair and CEO, Playboy Enterprises
 Helmick, Carl, Indian Wells Valley Concert Association, Ridgecrest, CA
 Herbert, F. John, Executive Director, Drawing Legion/CSPS, Cedar Rapids, IA
 Hicks, Gregory A., Trustee, Intiman Theatre Company, Seattle, WA
 Hotchner, Kathy, Scottsdale Center for the Arts, Scottsdale, AZ
 Hughes, Allen Lee, Lighting Designer
 Ivey, Dana, Actor
 Jackson, Marsha, Co-Artistic/Managing Director, Jomandi Productions, Atlanta, GA
 Jacobson, Frank, Arizonans for Cultural Development
 Jefcoat, Joe, Spirit Square Center for the Arts, Charlotte, NC
 Jennings-Roggensack, Colleen, Arizona State University, Public Events, Tempe, AZ
 Johnson, Bob, Southern Arts Federation, Atlanta, GA
 Jones, Terrence, Krannert Center for the Performing Arts at Univ. of Illinois
 Jones, James Earl, Actor; Board Member, The Creative Coalition
 Karayanis, Plato, General Director, The Dallas Opera
 Katz, Jonathan, National Assembly of State Arts Agencies, Washington, DC
 Keillor, Garrison, Humorist
 Kernaghan, Maryellen, Group One Acting Company, New York, NY
 Keyes, Jayne, Agent, William Morris Agency; VP, The Creative Coalition
 Khan, Ricardo, Artistic Director, Crossroads Theatre Company, New Brunswick, NJ
 Killacky, John, Curator, Performing Arts, Walker Arts Center
 Knoles, Amy, California EAR Unit, Los Angeles, CA
 Koss, Michael, President and CEO, Koss Corporation, Milwaukee, WI
 Krainik, Ardis, General Director, Lyric Opera of Chicago
 Krebs, Charles, Public Service Manager, Krannert Center for the Performing Arts at Univ. of Illinois
 Landesman, Heidi, Scenic Designer/Producer
 Lerner, Ruby, Association of Independent Video and Filmmakers
 Lewitzky, Bella, Lewitzky Dance Company
 Lewkowitz, Barbara, President, Arizonans for Cultural Development
 Lichtenstein, Harvey, President, Brooklyn Academy of Music
 Lieberman, David, David Lieberman Artists Rep, Los Angeles, CA
 Liederman, Susan, Producer; Board Member, The Creative Coalition
 Lindsley, Clyde, Executive Director, Strand-Capitol Performing Arts Center, York, PA
 Long, Sherron, Florida Cultural Action Alliance
 Loughlin, Terry, Artistic Director, The Golden Circle Theatre, Charlotte, NC
 Lower, Robert, President, Metro-Atlanta Chapter, Georgia Citizens for the Arts; Trustee, Woodroff Arts Center, Atlanta, GA
 Machado, Eduardo, Playwright
 Marek, Pam, National Theatre for Children, San Diego, CA
 Marks, Bruce, Artistic Director, Boston Ballet
 Mars, Robert E., Executive VP, Administration, Art Institute of Chicago
 Martin, Keith, Managing Director, Charlotte Repertory Theatre, Charlotte, NC
 Masterson, Mary Stuart, Actress; Board Member, The Creative Coalition
 Masur, Richard, Actor; Board Member, The Creative Coalition

Matheson, Nancy, Tandy Beal and Company, Santa Cruz, CA
 Maurer, Evan M., Director, Minneapolis Institute of Arts
 Mayleas, Ruth, Advisor, International Culture Programs, Ford Foundation, New York, NY
 McBride, Rebecca, Marketing and Public Services Director, Krannert Center
 McClimon, Timothy J., VP, Arts and Culture, AT&T Foundation, New York, NY
 McDonald, Susan, Associate Director, Krannert Center for the Performing Arts at Univ. of Illinois
 McKenzie, Kevin, American Ballet Theatre
 Mee, Charles L., Jr., Playwright/Historian
 Melillo, Joe, Producing Director, Brooklyn Academy of Music
 Metzger, Ed, Einstein Hemingway Management, California
 Miklavcic, Jimmy, Another Language Arts Company, Salt Lake City, UT
 Mitchell, R. William, Director, Walton Arts Center
 Mooney, Robert, Robert J. Mooney Arts Management, New York, NY
 Morphos, Evangeline, Producer; Board Member, The Creative Coalition
 Mund, Norma, New York City Arts Coalition; President, Artists Community Federal Credit Union
 Murfee, Elizabeth, Arizonans for Cultural Development
 Murphy, Gordon, Chair, Arizona Commission on the Arts, Phoenix, AZ
 Neill, Mary Gardner, Director, Yale University Art Gallery, New Haven, CT
 Nelson, Jane, General Director, Dayton Opera, Dayton, OH
 Nelson, John, Conductor, Lyric Opera of Chicago
 Newman, Denny, Public Relations, Lyric Opera of Chicago
 Nolan, Victoria, Managing Director, Yale Repertory Theatre, New Haven, CT
 O'Neill, Christine, VP, Development, Art Institute of Chicago
 Ortiz, Alfredo, South American Harp Soloist, Corona, CA
 Paul, Marschell, Executive Director, Artist Trust
 Perlman, Beverly, Beverly Perlman Arts Group, Maplewood, NJ
 Pfaff, Virginia, Kahilu Theatre, Kamuela, Hawaii
 Picker, Nessa Hyams, Producer; Treasurer, The Creative Coalition
 Planco, Johnnie, Agent, William Morris Agency; Board Member, The Creative Coalition
 Powell, Earl A., III, Director, National Gallery of Art
 Pranspill, George O., Verde Valley Concert Association, Sedona, AZ
 Price, Charles T., Board Member, Goodman Theatre, Chicago, IL
 Pruzan, Cathy, ODC/San Francisco
 Ramey, Sam, Singer, Lyric Opera of Chicago
 Rauch, Bill, Artistic Director, Cornerstone Theater Company, Los Angeles, CA
 Reeve, Christopher, Actor
 Rhea, Martha, Fine Arts and Humanities Commission, Salina, KS
 Ribalow, Meir Z., Playwright; Secretary, The Creative Coalition
 Roan, Neill Archer, California Center for the Arts, Escondido, CA
 Robinson, Amy, Producer; Board Member, The Creative Coalition
 Rose, Shelley, Executive Director, Georgia Citizens for the Arts, Atlanta, GA
 Rosenbloom, David, United Arts, Los Angeles, CA
 Rowe, Diane, Center Stage Software, CA
 Sacks, Star, Arizonans for Cultural Development
 Salwark, Dale, Stars of Magic, California
 Sapinkopf, Lisa, Lisa Sapinkopf Artist Management, Waterstown, MA

Sarandon, Susan, Actress; Board Member, The Creative Coalition
 Schaefer, Helen S., Arizonans for Cultural Development
 Schatzlein, Dale, Dir., Concerts and Lectures, University of Minnesota, Northrop Auditorium
 Schulfer, Roche, Producing Director, Goodman Theatre, Chicago, IL
 Scorca, Marc, Executive VP, OPERA America, Washington, DC
 Seymour, Lavonne J., City of Sierra Vista, Arts and Humanities, Sierra Vista, AZ
 Shagen, Rena, Rena Shagen and Associates, Inc., New York, NY
 Shaw, Janet, Janlyn Dance Company, Cupertino, CA
 Sheldon, Richard, Opera a la Carte, Los Angeles, CA
 Silver, Ron, Actor; Founder and President Emeritus, The Creative Coalition
 Sitter, Jim, Executive Director, Council of Literary Magazines and Presses
 Slatkin, Leonard, Music Director, St. Louis Symphony Orchestra
 Smith, Kathy C., Producers, Inc., Tampa, FL
 Smith, Anna Deavers, Actor/Playwright
 Smith, Molly, Artistic Director, Perseverance Theatre, Douglas, AK
 Smith, Kevin, General Director, The Minnesota Opera, Minneapolis, MN; VP, OPERA America
 Spicuzza, Heather, Western and Southern Arts Association, Austin, TX
 Stanton, Todd, Stanton Consulting and Management, New York, NY
 Starr, John, Big League Theatricals, New York, NY
 Starr, Billie Jo, President, Walton Arts Center Council
 Starr, Steven, Producer; Board Member, The Creative Coalition
 Steadman, David, Director, Toledo Museum of Art, Toledo, OH
 Steitzer, Jeff, Artistic Director, A Contemporary Theatre, Seattle, WA
 Stern, Isaac, Violinist
 Strauss, Susan, Storyteller, Bend, OR
 Sunshine, Steve, Producer; Board Member, The Creative Coalition
 Termonolen, Larry, Executive VP, Development, Art Institute of Chicago
 Tiersky, Evelyn, President, New England Presenters; Concert Manager, Amherst College
 Tomasson, Helgi, San Francisco Ballet
 Tucker, Marcia, Director, New Museum of Contemporary Art, New York, NY
 Umberger, Steve, Artistic Director, PlayWorks Theatre, Charlotte, NC
 Valenzuela, Jose Luis, Director, Latino Theatre Initiative, Mark Taper Forum, Los Angeles, CA
 Verdi, Vince, Side Street Strutters Jazz Band, Los Angeles, CA
 Voyles, Joan Abrahamson, Manatee County Cultural Alliance, Bradenton, FL
 Waller, Bret, Director, Indianapolis Museum of Art
 Wasserstein, Wendy, Playwright; Board Member, The Creative Coalition
 Wheaton, Marilyn L., Chair, State Arts Advocacy League of America
 Wheeler, Doug, Managing Director, Washington Performing Arts Society, Washington, DC
 Whitehead, Jean W., Trustee, The Acting Company, New York, NY
 Williams, Sylvia H., Director, National Museum of African Art
 Wingate, William P., VP, National Arts Stabilization Fund, New York, NY
 Woddy, David, Walt Disney Company, Orlando, FL
 Wood, James, Director, Art Institute of Chicago
 Wright-Lorenz Grain Company, Salina, KS
 Young, Elaine K., Oregon Advocates for the Arts
 Zeisler, Peter, Executive Director, Theatre Communications Group, New York, NY

file NEA.
K. M. M.

Thank you Mr. Chairman, members of the committee. It gives me great pleasure to come before you today as the President's choice to head the extraordinary agency, The National Endowment for the Arts which has meant so much to me in my lifetime.

I grew up in Brookline Massachusetts not far from Senator Kennedy's family homestead. My mother who hailed from south Boston excelled in school and became a scrub nurse to a neurosurgeon. My father, born and schooled in North Platte, Nebraska and in Omaha, was awarded a scholarship at age 16 to ~~HARVARD~~ ^{HARVARD} Harvard Medical School. His father, Daniel Quigley, the son of Irish Immigrants, distinguished himself not only as physician to Buffalo Bill Cody in North Platte, but as a pioneer in the use of radium for cancer over 75 years ago, and in extolling the virtues of vitamins. All I knew was the world of medicine and it was assumed, I suppose, that my brother, my sister, and I would find a life in science as well.

AND THEN TO
In 1945, a man I barely knew, my father, returned from the war. He had been gone most of my young life and in an effort to get to know me, this handsome stranger took me, one afternoon to the ballet. It was surely the seminal experience of my life. The Ballet was "Copelia" and it was danced by lighter than air magicians from Copenhagen, Denmark--American ballet companies being few and far between at that time. Although I was barely six, it transformed my life--my waking thoughts and my dreams. How could human beings defy gravity with such grace? Hovering in the air like hummingbirds sometimes? How was the corps de ballet able to execute their steps in such perfect unison? How did such beauty come to exist? You didn't see it in the real world, not costumes like that, or lights, or scenery or the seemingly limitless extension of the human body itself.

I was introduced to Art and from that moment on it never left me. Although I dedicated myself to becoming a ballerina it was not to be. The sheer discipline of the endeavor, the actual pain endured in being on point was more than I was cut out for and after getting some good laughs as Long John Silver in a 3rd grade production of Treasure Island I switched my allegiance to theatre. At fourteen our class was taken to an Old Vic production of Romeo and Juliet. I was transfixed by the romance of Shakespeare's tale and wondered if I would ever grow up to play Juliet--did only the British have a lock on theatre like this?

I began my search for a life in the theatre, one that would allow me to play the great classic plays of the world. At the time there was virtually only the commercial theatre represented by Broadway in New York City and its try outs and tours which visited cities across the United States from time to time, and there was community theatre where amateurs banded together and, for the love of it, put on plays wherever and however. My dream was to be like the great American actress

Katherine Cornell and do a play a year on Broadway and then tour it around the country for a year. But by the time I grew up that kind of theatre had dwindled to almost nothing.

A new and exciting movement was a foot in the early 60's. In New York the off Broadway theatre had begun in smaller spaces and with smaller budgets. The audience felt close to, and in some cases, part of the action. Outside of New York, a few intrepid pioneers had started similar theatres in Houston, in Cleveland, in Boston, in Indianapolis and here in Washington, D.C.. These places operated on a shoe string and did mostly revivals of tried and true plays and classics of the European repertory, there being no significant money yet for new playwrights (or plays). I was lucky enough to be a part of this new regional theatre movement, performing at the Indiana repertory theatre, Boston's Charles playhouse, and Washington's Arena Stage.

In 1965 an exciting thing happened. Congress declared that: "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. 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...". This was the Declaration of Independence for the Arts and Humanities and Senator Pell was its orchestrator for which we are deeply grateful. It legitimized the endeavors of thousands and recognized the worth of creative thought made manifest through painting, sculpture, architecture, dance, writing, design, music, opera, theatre, and film. It held that the arts belong to all people and that art is of the people, for the people, and by the people.

Almost immediately things began to happen. With seed money from the Endowment people took heart and went out and raised supplementary funds for small presses, for dance companies, for an opera, for artists to come into their schools, for museums to safeguard our heritage. This was happening all across the country.

In 1968 at the height of the civil rights and black power movement, we did a play called The Great White Hope at the Arena Stage with an interracial company of 63. The play was the first from a not-for-profit theatre to transfer to Broadway. It went on to win a Pulitzer prize for its author Howard Sackler, and James Earl Jones and myself found ourselves with film careers as well after doing the movie and receiving Academy Award nominations. Every single Pulitzer

Prize awarded since has been given to a play that originated in the not-for-profit theatre and funded by the NEA. That's quite a record.

My first love of theatre has continued to this day and I return regularly to theatres in different parts of the country. I can happily say I've performed or filmed in more than 20 states and visited all but Alaska and Idaho which are big omissions I know, and which I hope to remedy soon.

This is a vast and wonderful land of great diversity and beauty and I'm grateful to have been welcomed and to have felt at home in so many places. The life I've led in the theatre, in the world of art, has given so much to me personally--particularly the support given to me indirectly through the Arts Endowment grants, that I wish to give something back. Perhaps I can make a real contribution at this difficult time. The NEA has struggled these past few years to keep itself alive and valued in the public eye. In these 27 years it has awarded 100,000 grants. It has been an unparalleled success, perhaps the most successful of any of the independent Federal agencies. Directly and indirectly it has affected most artists and arts organizations alive today and created an arts economy of about 6% of the gross National Product, and over 2 1/2% of our work force. The Endowment's budget is minuscule in comparison with other government agencies but with it's \$175 million last year it created a 20 fold return in jobs, services and contracts. In partnership with the private sector it leveraged that \$175 million to almost 1.4 billion dollars.

How then has this success story managed to be depicted as a villain lately? A handful of controversial grants have taken the focus from the thousands upon thousands of grants that have enhanced the lives of millions. As the Presidents nominee for Chairman of the Arts Endowment, subject to confirmation, I intend to let the American people know the truth about the Endowment and the value of the Arts in each and every one of their lives. I respect the right of people to be heard--the voices of those who are disturbed by art and the voices of the Artists--this, after all, is the greatness of our democratic system, but it would be unwise to let the arts be used as a political football by those on the far right or the far left. The arts are for everyone and the endowment is too important to be used by those who would disseminate misinformation for their own ends or use the funding as their campaign platform.

I cannot promise under my Chairmanship that the arts will be free of controversy--the very nature of art after all is to hold the mirror up to nature and the arts are as diverse as the variety of human experience. We are, as Hamlet says "the abstracts and brief chroniclers of the time," and as such, the artist often taps into the very issues of society that are most sensitive. I can however, assure Congress that I will

follow the guidelines as mandated for funding to the very best of my ability to insure that grants are given for the highest degree of artistic merit and excellence, in order that the best reaches the most.

I have a vision for the arts in this country. That vision is that every man, woman, and child find the song in his or her heart. I see the arts as part of the solution to the problems we have and not in any way part of the problem. The arts are life enhancing and bring joy. Through the arts we release the very best that is in our imaginations and it is through imagination that we draw the map for our futures. Through the arts we learn the discipline of a skill and the accomplishment that comes with collaboration. The arts are a community issue. They bring together, they do not rend asunder.

I am proud to be an artist, and to be able sometimes to give people laughter, or move them emotionally or even enlighten them through the ideas and words of the writer. My experience as an artist is not limited to theatre and film. Dance is still a part of my life as is singing and playing the guitar. I enjoy photography and my husband and I collect paintings and sculpture. In addition I've written screenplays, poetry, and co-authored a translation of an Ibsen play and The Bluefish Cookbook, dedicated as you might have guessed to the noble Atlantic bluefish.

My passion is for the arts in all its manifestations and I feel I understand the creative process well. As for administrative experience I've co-produced three films nurturing them through the initial outline to production and the screen, overseeing as many as 200 employees. I've sat on the boards of a number of organizations having to do with the arts, health care, and the environment.

As chairman of the Endowment I will be leading a proven staff of 275. The applications for grants in each field are presented to a peer panel of private citizens who are arts experts and lay persons. Out of 17,000 who apply less than 4,000 are chosen for funding by the panels. The 26 members of the National Council on the Arts then review the panels suggestions and approves or rejects. The chairman makes the final decision with regard to approval. This is a fine system which needs some quality control with regard to sub-grants in my estimation but one where I intend to use the authority granted me by Congress. The grants to individual artists make up only 5% of those given. As the grants for organizations are matched dollar for dollar with the private sector I look forward to increased partnership here. I also look forward to working with the state arts councils and local agencies to develop new and innovative ways to reach communities everywhere. I hope to be able to travel to all 50 states and

listen to the people and their needs with regard to the arts, from the most rural area to the inner city.

Mr. Chairman, I am honored to be considered for this position. It is the culmination of my life in the arts. This life has given me much joy, and I hope to be able to give the people of this country the opportunity to find in the arts some of the richness and joy that I have experienced.

*ack
file N&A*

From: Valerie J. Owens on 10/11/2000 08:19:35 PM

Record Type: Record

To:

cc:

Subject: Statement by the President: The Signing of H.R. 4578

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One)

For Immediate Release
October 11, 2000

STATEMENT BY THE PRESIDENT

Today I have signed into law H.R. 4578, the "Department of the Interior and Related Agencies Appropriations Act, 2001." I want to commend the Congress for agreeing on an acceptable version of this bill that provides critical funding for many priority needs -- our national parks, national forests, wildlife refuges, and other public lands; State and local grants for land conservation and preservation; Native American programs; cleaner water; energy security; and the Arts. I am pleased that, unlike earlier versions of the bill, the final bill excludes a large number of highly objectionable provisions that would change our environmental protection and natural resource conservation laws without adequate public and congressional scrutiny.

In particular, I am very pleased that this Congress has agreed to establish a new budget category to provide dedicated and protected funding for the conservation and preservation programs in my Lands Legacy Initiative and other related activities. This agreement will nearly double our investment next year in these programs and move us toward providing communities with the resources they need to protect their most precious lands. By establishing this new budget category and fencing off more than \$10 billion over the next 5 years, we are fulfilling our commitment to make the single largest annual investment in protecting our green and open spaces since Theodore Roosevelt set our Nation on the path of conservation nearly a century ago.

The bill provides a significant increase in funding for key

components of my Native American Initiative program, including most of the requested investments in Indian school construction and law enforcement. It also provides the largest funding increase for the Indian Health Service in its history. The bill also helps to protect the environment by increasing funds for the Clean Water Action Plan and promotes the Arts by providing the first funding increase for the National Endowment for the Arts in 9 years. In addition, the increase provided for the National Endowment for the Humanities will enable the NEH to continue to implement its Rediscovering America through the Humanities initiative.

The bill provides strong support for a number of other national priorities. It expands funding for weatherization of low-income homes, which will help low-income households prepare for the coming winter season. It includes funding for research into energy efficiency to reduce our dependence on oil and address climate change, through initiatives like the Partnership for a New Generation of Vehicles, which will aid in the development of a new generation of ultra-efficient cars. In addition, the bill provides funding for a Regional Home Heating Reserve for the Northeast.

I note that there is also a provision in Title VIII of the bill that violates *INS v. Chadha* because it purports to condition the availability of certain appropriated funds on the provision by congressional committees of a list of specific acquisitions to be undertaken with such funds. As a result, I will treat that provision as being advisory only, and not as legally binding.

In addition, all of the funds in Title V of the bill have been designated by the Congress as emergency requirements. I hereby designate those amounts in Title V, totaling \$87,515,000, as emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. The Congress has provided other important emergency funds in the bill to assist States that have been ravaged by wildfires in the

West. My Administration is reviewing the current situation, and these firefighting funds will be released as needs dictate.

In conclusion, by dedicating future funds for conservation and related programs, investing in Indian schools, assisting energy conservation, and supporting the Arts, this bill represents a major step forward. The American people both expect and deserve nothing less.

WILLIAM J. CLINTON



NATIONAL ENDOWMENT FOR THE ARTS

file NEA

The Nancy Hanks Center
1100 Pennsylvania Avenue NW
Washington DC 20506-0001
202/682-5400

Office of the Chairman

October 5, 2000

Ms. Melanne Verveer
Assistant to the President and Chief of Staff to the First Lady
The White House
100 Eisenhower Executive Office Building
17th Street and Pennsylvania, N.W.
Washington, D.C. 20503

Dear Melanne:

I want to thank you for your tremendous perseverance in our behalf this year. You may be disappointed that we couldn't accomplish more in the end, but you can be sure that arts supporters, for the first time in many years, are celebrating the end of this budget season.

A few years ago, this agency and other organizations that represent our national investment in the arts and culture were in danger of being abolished entirely. We fought that and we stopped it. The outcome this year is symbolic of another turn-around because it marks the beginning of a restoration process.

This year's outcome was clearly a defeat for the other side. I commend you and the many thousands of citizens working at the grass-roots level for winning the fight to protect our continuing national commitment to arts and culture.

Thank you again for your leadership.

Sincerely,

Bill
Bill Ivey
Chairman

Melanne
Thanks for all of your support - We finally got it done, and you were at the center of making it happen - all the best - B.



NATIONAL ENDOWMENT FOR THE ARTS
DETERMINED TO BE AN
ADMINISTRATIVE MARKING
INITIALS: *jd* DATE: 4/7/2014

The Nancy Hanks Center
1100 Pennsylvania Avenue NW
Washington DC 20506-0001
202/682-5400

OFFICE OF THE CHIEF OF STAFF

Office of the Chairman

TO: Melanne Verveer

FAX: 456-6244

~~CONFIDENTIAL~~

FROM: ALEXANDER D. CRARY
202-682-5652 (phone) 202-682-5063 (fax)

DATE: December 2, 1996 NUMBER OF PAGES: 2

MESSAGE:

Hi Melanne. Here are some off the record ideas for you to think upon and which we can discuss at any mutually convenient time.

- OMB BUDGET MARK.** We were alarmed to learn last week that OMB had set our FY '98 budget mark at 5% below our current \$99.5 million. Our examiners immediately appealed this mark to Raines and succeeded in rounding the final figure up to \$103 million (which represents a 3.2% rise for inflation). Our formal agency appeal goes to OMB on December 4th. Our request to OMB for FY 98 is \$145 million. We would have preferred to request an amount equal to the FY 95 funding level (\$162.3 million) but as a "team player" we limited our request to \$145 million. This request level is virtually the same amount as our funding level in FY 82! We very much need the Administration's continued support to help bolster the loss of support in Congress due to the recent elections.
- NATIONAL MEDAL OF ARTS.** It would be helpful to more closely link the medal events with the two Endowments. The medals ceremony is an opportune time to articulate the crisis over the future of the NEA. Would it be appropriate for Jane and Sheldon to have brief speaking roles at the ceremony?
- INAUGURAL ADDRESS and STATE OF THE UNION.** These are good opportunities for the President to mention the importance of the federal role in supporting the arts and humanities. It need only be one line or part of one line in each speech. Let me know if you have ideas on how to make this happen. We will draft text if it would help.



NATIONAL ENDOWMENT FOR THE ARTS

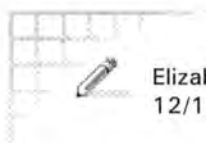
~~CONFIDENTIAL~~

The Nancy Hanks Center
1100 Pennsylvania Avenue NW
Washington DC 20506-0001
202/682-5400

Office of the Chairman

4. **NATIONAL COUNCIL ON THE ARTS MEETING.** The next meeting of the National Council on the Arts is March 7, 1996. We would like to have Mrs. Clinton come and speak at this meeting. By then we should have almost 100% Clinton appointees on the Council. Our appropriations hearings should be underway by then so we may have an early sense of how the new Congress is going to treat us.
5. **AMERICAN CANVAS REPORT.** In the Spring we will be releasing the final report on our American Canvas initiative which will summarize the findings of our community forums all over the country. These forums addressed the needs of the non-profit cultural sector community by community. This could be a perfect vehicle for Mrs. Clinton to endorse and help us release. I will keep you up to date as it develops.
6. **PRESIDENTS COMMITTEE ON THE ARTS AND HUMANITIES.** We need to talk about this organization and its relationship with the Arts Endowment. There is a growing sense that the Committee competes with the NEA rather than supports it. We should consider requiring the Committee to raise its own operating funds. NEA and NEH now contribute over \$300,000 apiece to keep it afloat each year and, as our funds decrease, it becomes harder to justify this cost.

file NEA



Elizabeth R. Newman
12/19/97 11:11:10 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Personnel Announcement: William Ivey Named Chair National Endowment of the Arts

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 19, 1997

PRESIDENT CLINTON NAMES WILLIAM J. IVEY AS CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE ARTS

President Clinton today announced his intent to nominate William J. Ivey as Chairman of the National Endowment for the Arts.

Bill Ivey currently serves as a presidential appointee to the President's Committee on the Arts and the Humanities. He was one of the main contributors to the President's Committee's report to President Clinton, Creative America, an analysis of American cultural life. Ivey, currently Director of the Country Music Foundation, has had extensive experience with the National Endowment for the Arts since 1976. He is the first nominee for Chairman who is an arts organization professional and who has developed and run a cultural nonprofit.

 Over a twenty-five year career, Ivey has been a passionate advocate for the full range of American art forms. He has stated his position succinctly: "America's creativity is democracy's calling card; it is of the utmost importance that every citizen engage and support our nation's living cultural heritage." Ivey has been at the forefront of national efforts to preserve historic recordings of both popular and classical music.

Since 1971, Ivey has been Director of the Country Music Foundation in Nashville, Tennessee. Called a "Mecca with a mission" by the *Wall Street Journal*, the Foundation is accredited by the American Association of Museums as a not-for-profit education and research organization which operates the Country Music Hall of Fame and Museum.

Ivey is also a teacher and a writer. He was Senior Research Fellow at the Institute for Studies in American Music of Brooklyn College, and has taught at Vanderbilt University's Blair School of Music. Ivey is the author of numerous essays on America's unique musical traditions.

Bill Ivey has served in leadership roles with numerous cultural organizations, both nonprofit and commercial. He is a national trustee of the National Academy of Recording Arts & Sciences (NARAS), and is the only individual elected to two separate terms as National Chairman of that organization. Ivey has served as panelist, panel chair, and consultant to the Music, Folk Arts, Challenge, and Advancement programs of the National Endowment for the Arts.

Bill Ivey was born in Detroit in 1944, and was reared in the Northern Peninsula of Michigan. He was educated at the University of Michigan and at Indiana University, and holds degrees in history, folklore and ethnomusicology.

The National Endowment for the Arts, created in 1965, is an independent federal agency whose mission is to foster and sustain the excellence, diversity, and vitality of culture in the United States while broadening the availability of arts for all Americans.

-30-30-30-

Message Sent To: _____

file NEA

Jane Alexander

October 20th, '97

Dear Melanne,

You have my
total admiration — your stamina,
your gentle persuasion, your intelligence,
your laughter. You also have my
friendship forever. I could not
have asked for a better friend to
use these past hour and a half years.

The difficulties of being NEA chair
melt into the background in the
face of all the remarkable people
I worked with. You are numero uno!

Love, Jane

tion Corps as authorized by 16 U.S.C. 1706, \$1,285,604,000, of which not less than \$600,000 is for salaries and expenses by, at, and exclusively for new hires of mineral examiners on site at the Mojave National Preserve, none of which may be used for staff or administrative expenses for the geological resources division in Denver, Colorado or any other location, and of which \$12,800,000 is for research, planning and interagency coordination in support of land acquisition for Everglades restoration shall remain available until expended, and of which not to exceed \$10,000,000, to remain available until expended, is to be derived from the special fee account established pursuant to title V, section 5201 of Public Law 100-203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, heritage partnership programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, ~~\$45,925,000~~.

\$ 46,225,000

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333), ~~\$2,412,000~~, to be

7

derived from the Historic Preservation Fund, to remain available until September 30, 2000, of which \$7,000,000 pursuant to section 507 of Public Law 104-333 shall remain available until expended: *Provided*, That of the total amount provided, ~~\$10,000,000~~ ^{\$30,000,000} shall be for Save America's Treasures for priority preservation projects, including preservation of intellectual and cultural artifacts and of historic structures and sites, of Federal agencies to which funds were appropriated in the Fiscal Year 1998 Interior and Related Agencies Appropriations Act: *Provided further*, That individual Save America's Treasures grants shall be subject to a fifty percent non-Federal match, and shall be available by transfer to appropriate accounts of individual agencies, after approval of projects by the Secretary: *Provided further*, That the agencies shall develop a common list of project selection criteria for Save America's Treasures which shall include national significance, urgency of need, and educational value, and ~~that~~ ^{which} shall be approved by the House and Senate Committees on Appropriations prior to any commitment of grant funds: *Provided further*, That individual projects shall only be eligible for one grant, and all projects to be funded shall be approved by the House and Senate Committees on Appropriations prior to any commitment of grant funds: *Provided further*, That within the amount provided for Save

60%
non-fed.

the
National
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Records
Administration
and of

America's Treasures, \$3,000,000 shall be transferred immediately to the Smithsonian Institution for restoration of the Star Spangled Banner, and \$500,000 shall be available for the Sewall-Belmont House: *Provided further, That* none of the funds provided for Save America's Treasures may be used for administrative expenses, and staffing for the program shall be available from the existing staffing levels in the National Park Service.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, including the modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, ~~\$226,858,000~~, to remain available until expended: *Provided, That* \$550,000 for the Susan B. Anthony House, \$1,000,000 for the Virginia City Historic District, \$2,000,000 for the Field Museum, \$500,000 for the Hecksher Museum, \$600,000 for the Sotterly Plantation House, \$1,000,000 for the U-505, and \$600,000 for the Wheeling National Heritage Area shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a *Provided further, That*

~~\$6,600,000 shall be derived from the Environmental Improvement and Restoration Fund pursuant to Public Law~~

105-83.

and sufficient funds
to complete the restoration
of the Declaration of Independence and the
U.S. Constitution located in the National Archives

\$1,500,000 for the Kendall County Court House,



filed NEA
July 12, 1995
(House Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1977 -- DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1996

(Sponsors: Livingston (R), Louisiana; Regula (R), Ohio)

This Statement of Administration Policy provides the Administration's views on H.R. 1977, the Department of the Interior and Related Agencies Appropriations Bill, FY 1996, as reported by the House Appropriations Committee.

The Administration is committed to balancing the Federal budget by FY 2005. The President's budget proposes to reduce discretionary spending for FY 1996 by \$5 billion in outlays below the FY 1995 enacted level. The Administration supports reducing spending but does not share the priorities reflected in the Committee's mark or support the level of funding assumed by the Committee's 602(b) allocations.

For the reasons discussed below, the Secretary of the Interior and the Director of the Office of Management and Budget would recommend that the President veto the bill if it were presented to him in its current form.

Department of the Interior

While the Administration recognizes the funding constraints the House faces, the Committee's proposed cuts in science and research, particularly for the National Biological Service (NBS) and the Bureau of Mines, would cripple effective operation of the land management agencies' programs that the Committee has tried to protect. The 35-percent reduction to the NBS request would devastate the research that has been conducted for years and supported land management decisions before the NBS was ever conceived. These reductions and eliminations would cause nationwide reductions-in-force and the closure of major research centers with unique expertise and capabilities. The ability of the land management agencies to make resource decisions on an objective scientific basis would be severely reduced.

Likewise, the Administration does not support the Committee's action that would underfund natural resource protection and land management operations in the National Park

Service, Bureau of Land Management, and Fish and Wildlife Service. Operating programs in these three bureaus would be reduced \$174 million, or seven percent, below the President's request. Specifically, the Administration strongly objects to the severe, 31-percent reduction of funding below the request for Endangered Species Act (ESA) activities -- with no funding for species prelisting or listing. ESA consultation, prelisting, and recovery activities are preventative measures that help keep species off of the endangered or threatened species list so that local communities will not be negatively affected by the Act. Reducing the Fish and Wildlife Service's ability to work with States, local communities, and private citizens at an early stage outside of the regulatory environment would simply cost more money and cause more economic, social, and environmental conflicts in the long run.

The Administration also objects to the Committee's decision to undo the 1994 California Desert Wilderness Act by transferring FY 1996 funding requested for the East Mojave National Preserve to the Bureau of Land Management and, therefore, not providing full funding for the Act's implementation. The Act established the largest addition to the National Parks System since the passage of Alaskan parks legislation in 1978 and 1980, and placed these unique lands under the management of the National Park Service. The Committee's action would essentially rewrite the authorization bill enacted in the last Congress.

The Administration is strongly opposed to language provisions that would prohibit any new surveys on private lands and prohibit the use of volunteers. The National Biological Service has always followed State laws with respect to private property, and congressional direction to obtain written permission from the affected landowners to conduct new surveys. Furthermore, volunteers are necessary to conduct key migratory and game bird surveys, including the Breeding Bird Survey. Because States depend on these survey data to establish hunting regulations, the restriction on volunteers could threaten future hunting seasons.

The Administration is opposed to the appropriations language and funding restrictions that would discontinue the Interior Columbia River Basin Ecoregion Assessment Project. This comprehensive plan uses an innovative, multi-agency, coordinated approach to the management of public lands to improve salmon habitat, forest health, and multi-species protection within the Columbia River Basin. Failure to proceed with the plan would jeopardize the ability of the Forest Service and the Bureau of Land Management to maintain a sustainable flow of timber and the production of other goods and services generated by the forests in the affected area.

The Administration strongly opposes the reduction of funding for other economic and environmental activities in the Pacific Northwest. Reduced funding would decrease the Department of the

Interior's ability to perform critical consultations with other land management agencies as well as with private landowners under the Endangered Species Act's "4(d) rule," which was proposed by the Administration to ease spotted owl taking prohibitions on private lands. The lower level of funding would also impair the ability of the Administration to meet its timber harvest goals under the rigorous criteria of the Forest Plan and maintain momentum with ongoing watershed analysis. The reduction in requested funding would also decrease the number of jobs associated with project work under the "Jobs in the Woods" program and the rate of recovery for impaired watersheds.

The Administration also opposes congressional add-ons for unrequested, low-priority items, such as the Water Resources Research Institutes, at the expense of higher-priority needs like the national parks and sound science.

The Outer Continental Shelf

The Administration strongly supports the Committee's decision to reinstate the long-standing legislative moratoria on oil and gas leasing and drilling on certain lands of the Outer Continental Shelf (OCS). Maintaining these moratoria will protect the environment and economies of California, Florida, the Pacific Northwest, Alaska, and other coastal states. It will also aid Administration efforts to resolve disputes involving OCS policy and base that policy on sound science protecting America's sensitive coastal ecosystems.

Funding for Native American Programs

The Administration opposes the Bureau of Indian Affairs (BIA) reductions proposed by the Committee. The President's request for BIA recommends \$1.9 billion (nine percent over FY 1995) to fund critical education, law enforcement, health and safety, and other services on reservations. The proposed 12-percent reduction below the request would threaten or eliminate these services. The Administration urges the House to restore BIA funding to the President's requested level.

The Administration also opposes the Committee's proposed elimination of Indian Education programs and the Office of Indian Education within the Department of Education. Funds provided by this office serve the 90 percent of Indian children who attend public rather than BIA-funded schools. These programs provide academic and enrichment services that would otherwise be unavailable to Indian students.

For Indian Health Services (IHS), the Administration has proposed \$1.8 billion for FY 1996, a \$106 million (six percent) increase over FY 1995. The requested funding level would support staffing at new health facilities and allow expansions in women's and elderly health, child abuse, and urban Indian health care. The Committee mark would fund no expansions and would require the IHS and tribal health care programs to absorb \$90 million in expected increases for current program activities. The Administration urges the House to restore IHS funding to the President's requested level.

Forest Service (USDA)

The Administration supports the Committee's decision to increase funding for recreation and rangeland management, and maintain funding for forest health and fire management under State and Private Forestry. However, the reductions to trails and facilities construction would not allow the Forest Service to rehabilitate decaying infrastructure and would lead to further resource damage to National Forest lands. The elimination of funding for the Stewardship Incentives Program would cause a subsequent loss of leveraged funding from private landowners and States of \$27 million. This would curtail the implementation of stewardship practices, such as reforestation and timber stand improvements, on thousands of acres of non-industrial private forestlands. The Administration urges the House to restore funds partially for these programs by reallocating funding provided above the requested level for timber sales management.

Department of Energy (DOE)

The Administration strongly opposes the 40-percent overall reduction in Energy Conservation programs, which would seriously disrupt several high-priority Administration initiatives. The 50-percent cut in the State Grants program would mean that 50,000 to 60,000 low-income homes would not be weatherized and that numerous State energy initiatives would not be funded through DOE block grants. The cuts in Energy Conservation research and development would make meeting climate change and greenhouse gas reduction goals difficult and would impair future improvements in the energy efficiency of buildings and the industrial sector. The 23-percent reduction to the request for the Partnership for a New Generation of Vehicles would impede progress toward vehicle efficiency and emission reductions. These sectors hold great promise for efficiency improvements but are targeted for the largest reductions by the Committee mark.

The Administration's efforts to reduce emissions of greenhouse gases would be further impeded by the Committee's action to eliminate funding for the extraction and use of coal-bed methane.

The Administration opposes funding the Clean Coal Technology program at \$140 million over the request, particularly at the expense of higher-priority needs like energy conservation. As part of Reinventing Government, the Administration has proposed no new starts for the clean coal program, and plans to terminate the program once ongoing projects are completed.

The Administration would oppose any amendment offered on the floor that would prohibit the sale or scoring of the sale of oil from the Strategic Petroleum Reserve for the purpose of decommissioning Weeks Island.

AmeriCorps

The Administration objects to language included in the Committee bill that would prohibit the use of funds provided in the bill for AmeriCorps national service projects. Although it has been in existence for less than a year, the Americorps program has had remarkable success in terms of providing national service opportunities, with an impressive return on investment for taxpayers. For example, at the Everglades-South Florida project, 110 AmeriCorps members have worked on 55 individual projects at four National Parks and six Fish and Wildlife units. Thirty of the 40 planned water monitoring stations have been installed, calibrated, and placed in operation, saving \$250,000 annually. The House is urged to delete this language from the bill.

Section 2477 of the Revised Statutes (RS 2477)

The Administration objects to the moratorium on implementing Interior's final regulation to resolve RS 2477 disputes. This regulation would provide a process to resolve legal questions concerning rights-of-way on public lands. A moratorium would maintain the status quo and uncertainty about which rights-of-way represent valid claims.

Patent Moratorium

The Administration strongly supports continuing the moratorium on patenting mining claims on Federal lands. Patenting means privatizing valuable Federally-owned mineral deposits, with only minimal returns for taxpayers, and putting these deposits beyond the reach of any royalty payment to the Federal treasury. The Administration consequently opposes the Committee's action that would lift the current moratorium.

Cultural Agencies

The Administration opposes the drastic cuts in funding for the arts and humanities and museum services recommended by the Committee. The National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), and the Institute for Museum Services (IMS) play an important role in the

preservation of American artistic and cultural heritage and expression. The NEA ensures that arts programs can be brought to a wider audience, including inner-city youth; major research and educational projects depend on support from the NEH; and the IMS provides critical resources to small and rural museums. In addition, these agencies have a positive impact on regional economies and in leveraging private funds for the Federal funds invested.

The Administration also objects to the Committee's reduction in funding for the Smithsonian Institution, National Gallery of Art, and the Woodrow Wilson Center. The elimination of funding for the Smithsonian's National Museum of the American Indian would result in construction delays and jeopardize the safety of many artifacts stored in substandard conditions. In addition, reductions in the funds for Repair and Restoration (27 percent for the Smithsonian and 44 percent for the National Gallery of Art) would exacerbate declining conditions in the Mall museums. For the Woodrow Wilson Center, a 39 percent reduction in requested funding would prolong the current inadequate space and facilities used by the Center in the Smithsonian Castle. The Administration urges the House to restore funding for these programs.



August 4, 1995
(Senate Floor)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 1977 -- DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1996

(Sponsors: Hatfield (R), Oregon; Gorton (R), Washington)

This Statement of Administration Policy provides the Administration's views on H.R. 1977, the Department of the Interior and Related Agencies Appropriations Bill, FY 1996, as reported by the Senate Appropriations Committee.

The Administration is committed to balancing the Federal budget by FY 2005. The President's budget proposes to reduce discretionary spending for FY 1996 by \$5 billion in outlays below the FY 1995 enacted level. The Administration does not support the level of funding assumed by the House or Senate Committee 602(b) allocations. The Administration must evaluate each bill both in terms of funding levels provided and the share of total resources available for remaining priorities. The Committee bill is \$1.7 billion below the President's request.

The Administration is pleased that the Senate Committee has improved funding levels over the House-passed bill for several key investments and agencies. Notably, the Administration commends the Committee for increasing funds for science in the Department of the Interior, especially for the Natural Resource Science Agency; and for allowing implementation of the 1994 California Desert Wilderness Act by restoring management of the East Mojave National Preserve to the National Park Service.

Despite these improvements, the Senate Committee has added new legislative restrictions, reduced funding for high-priority investment programs, continued funding for low-priority items, and made additional devastating cuts in programs of the Bureau of Indian Affairs. In addition to these changes, many of the previously stated objections to the House-passed bill have not been addressed. For the reasons outlined below, the Secretary of the Interior and the Director of the Office of Management and Budget would recommend that the President veto the bill if it were presented to him as reported by the Senate Committee.

Patent Moratorium

The Administration strongly opposes the Committee's decision not to continue the current moratorium on patenting mining claims on Federal lands. Patenting means privatizing valuable Federally-owned mineral deposits, with only minimal returns to taxpayers, and putting these deposits beyond the reach of any royalty payment to the Federal treasury.

Native American Programs

The Committee's \$435 million reduction to the request for Bureau of Indian Affairs (BIA) programs would devastate tribal governments and other basic services to reservations, reversing progress that has been made towards meaningful self-determination. The Administration strongly opposes the 35-percent cut for Tribal Priority Allocation (TPA) programs, which include basic tribal government operations, law enforcement, housing improvement, general assistance, child welfare, and vocational training. The TPA programs are the Tribes' highest priority.

The Administration strongly opposes the transfer of responsibility for all trust programs from the Assistant Secretary - Indian Affairs to a special trustee's office in the Office of the Secretary of the Interior. This action, coupled with an \$18 million reduction for trust operations, would impair ongoing efforts to improve the management of trust funds.

The Administration objects to the Committee's 58-percent reduction to BIA's Central Office functions. Resulting severance costs would necessitate the termination of almost all Washington and Albuquerque Central Office staff, leaving the BIA with insufficient resources to provide policy direction or to correct material weaknesses. Further, the Committee's proposed 46-percent reduction in Area Office functions would force the closure or consolidation of offices, jeopardizing technical assistance to Tribes.

Funding BIA schools at \$30 million below the request, as recommended by the Committee, would severely limit the BIA's ability to operate schools on reservations in accordance with State and regional accreditation standards, would not allow for transportation to day and boarding schools, and would jeopardize school safety.

The Administration strongly opposes the 35-percent reduction from the request for the Department of Education's Indian Education programs, which primarily serve the 90 percent of Native American children who attend public rather than BIA-funded

schools and provide literacy services and fellowships for Native American adults. These programs provide supplemental academic and enrichment services that would otherwise be unavailable to these students.

The Administration strongly objects to the \$92 million reduction to the request for the Indian Health Service (IHS). This action would impede the ability of IHS to maintain basic health services for Native Americans and Alaskan Natives at current levels.

Endangered Species Act

The Administration strongly objects to the Committee's moratorium on endangered species listings and critical habitat designations. The Administration also objects to the 29-percent reduction in funding for Endangered Species Act (ESA) programs in the Fish and Wildlife Service (FWS). These activities are preventive measures that help keep species off the endangered or threatened species list so that local communities will not be negatively affected by the Act. Reducing the ability of the FWS to work with States, local communities, and private citizens at an early stage outside of the regulatory environment would cost more money and cause more economic, social, and environmental conflicts in the long run.

Columbia River Basin Ecoregion Assessment Project

The Administration is opposed to the appropriations language and funding restrictions of the Committee bill that would discontinue the Columbia River Basin Ecoregion Assessment Project. This project, entering its final year, uses a coordinated, multi-agency approach to the management of public lands to improve salmon habitat, forest health, and multi-species protection within the Columbia River Basin. By establishing unrealistic timelines for analyzing data and information and finishing environmental impact statements, the Committee would prevent the use of scientific and economic information collected to date on the project. This analysis is crucial for updating forest plans based on the most recent, scientifically credible information. Eliminating the project so close to its completion would jeopardize both the ability of the Forest Service and the Bureau of Land Management (BLM) to maintain a sustainable flow of timber and the production of other goods and services generated by the forests in the affected area.

Pacific Northwest

The Administration strongly opposes the Committee's reduction of funding for several economic and environmental activities in the Pacific Northwest. The BLM would not be able to meet its timber targets at these reduced levels. The Fish and

Wildlife Service would not be able to approve timber sales for the land management agencies or work with private landowners under special rules proposed by the Administration to ease spotted owl taking prohibitions on private lands. Reduced funding would also mean fewer employment opportunities under the "Jobs in the Woods" program. The Administration urges the Senate to restore funding for economic and environmental activities in the Pacific Northwest.

Tongass National Forest

The language in this bill that directs the Forest Service program in the Tongass National Forest undermines responsible forest management. This would, for the first time ever, displace a scientific and public process with specific direction from Congress. This would be the first time that Congress has directed the Forest Service to use a particular forest management plan. That means the Forest Service would have to ignore over 6,000 public comments that it has received on this plan. It also ignores the scientific research that has been done on this plan since its original publication. The result is that logging companies would harvest timber in some of the most environmentally sensitive areas of the Tongass. This could, in turn, lead to legal challenges that could delay the whole program, cause court intervention to halt logging and put timber-related jobs at risk.

Department of Energy

The Administration opposes funding the Clean Coal Technology program at \$140 million over the request, particularly at the expense of higher-priority needs such as Energy Conservation. These additional funds will not be obligated in FY 1996 since there is approximately \$1 billion in unobligated funds in the account.

The Administration strongly opposes the Committee's overall 38-percent reduction to the Energy Conservation request, which would seriously disrupt several high-priority initiatives. The Committee's 40-percent cut in the State Grants program would mean that 40,000 to 50,000 low-income homes would not be weatherized and would greatly hinder implementation of the State block grants initiative. The 37-percent cut in Energy Conservation research and development would make meeting climate change and greenhouse gas reduction goals almost impossible, would compromise industry partnerships aimed at improving the energy efficiency of buildings and industry, and would seriously jeopardize the Partnership for a New Generation of Vehicles program.

AmeriCorps

The Administration objects to language included in the Committee-reported bill that would prohibit the use of funds provided in the bill for AmeriCorps national service projects. Although it has been in existence for less than a year, the AmeriCorps program has had remarkable success in terms of providing national service opportunities. For example, at the Everglades-South Florida project, 110 AmeriCorps members have installed, calibrated, and placed in operation 30 of the 40 planned water monitoring stations, saving \$250,000 annually. The Senate is urged to delete this language from the bill.

Additional Administration concerns with the bill as reported by the Committee are contained in the attachment.

Attachment

ADDITIONAL CONCERNS
H.R. 1977 -- INTERIOR AND RELATED AGENCIES
APPROPRIATIONS BILL, FY 1996

(AS PASSED BY THE SENATE COMMITTEE)

The Outer Continental Shelf

The Administration strongly supports the Committee's decision to reinstate the long-standing legislative moratoria on oil and gas leasing and drilling on certain lands of the Outer Continental Shelf (OCS). Maintaining these moratoria will protect the environment and economies of California, Florida, the Pacific Northwest, Alaska, and other coastal States. It will also aid Administration efforts to resolve disputes involving OCS policy and base that policy on sound science protecting America's sensitive coastal ecosystems.

Department of the Interior

The Administration supports the Committee's decision to increase funding for science programs within the Department of the Interior. The Natural Resource Science Agency, the U.S. Geological Survey, and the Bureau of Mines provide key research and analysis on natural resource issues for land and resource managers within Federal, State, and local agencies.

The Administration does not support the Committee's action that would underfund natural resource protection and land management operations in the National Park Service (NPS), Bureau of Land Management, and Fish and Wildlife Service. Operating programs in these three bureaus would be reduced \$170 million, or seven percent, below the request.

The Administration opposes congressional add-ons for unrequested, low-priority items, such as the Water Resources Research Institutes, at the expense of higher-priority needs. The Committee added \$50 million for land acquisition and construction projects not requested by the Administration, including \$24.9 million for 16 add-on NPS construction projects, many of which have no priority for construction and a few which have no planning completed.

The Administration opposes the 21-percent reduction to the Abandoned Mine Lands Reclamation program managed by the Office of Surface Mining (OSM). This reduction would impede the ability of OSM to respond to emergencies, such as

mudslides and subsidence, that threaten the safety of coal field residents. The 54-percent reduction in OSM's fee compliance program would jeopardize the collection of over \$240 million in reclamation fees.

Section 2477 of the Revised Statutes (RS 2477)

The Administration objects to the moratorium on implementing Interior's final regulation to resolve RS 2477 disputes. This regulation would provide a process to resolve legal questions concerning rights-of-way on public lands. A moratorium would maintain the status quo and uncertainty about which rights-of-way represent valid claims.

Forest Service, Department of Agriculture

The Administration commends the Senate for restoring funds for construction, which are needed to rehabilitate decaying infrastructure and improve trails and facilities on National Forest lands and for land acquisition. However, the elimination of funding for the Stewardship Incentives Program would cause a subsequent loss of leveraged funding from private landowners and States of \$27 million. This would curtail the implementation of stewardship practices, such as reforestation and timber stand improvements, on thousands of acres of non-industrial private forestlands. The Administration urges the Senate to reallocate funds for higher priority programs, such as the Stewardship Incentives Program.

Department of Energy

The Administration supports the Committee's decision to eliminate section 319 of the House-passed bill, but objects to the revised section 320. The revised provision would prevent the establishment of efficiency standards for fluorescent lights, which would cost consumers millions of dollars.

Cultural Agencies

The Administration commends the Committee for restoring funding for the Smithsonian's National Museum of the American Indian. These funds are needed to ensure timely construction and to maintain the safety of many artifacts that have been stored in substandard conditions.

The Administration opposes the drastic cuts in funding for the arts and humanities and museum services recommended by the Committee. The National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), and the Institute for Museum Services (IMS) play an important role

in the preservation of American artistic and cultural heritage and expression. The NEA ensures that arts programs can be brought to a wider audience, including inner-city youth; major research and educational projects depend on support from the NEH; and the IMS provides critical resources to small and rural museums. In addition, these agencies have a positive impact on regional economies and in leveraging private funds for the Federal funds invested.

Objectionable Provisions

The Administration objects to several provisions, which seek to micromanage agency activities and impede the ability of the agencies to accomplish their work efficiently and effectively. Some specific concerns related to these objectionable provisions follow:

Refuge Management Restrictions. The Administration objects to the Committee's attempt to micromanage specific National Wildlife Refuges. Language overturning the Department's pesticide use policy on two refuges in northern California would actively undermine the conservation purpose of these refuges by allowing the use of pesticides on lands leased for agriculture that have been documented as killing migratory birds and endangered species and impairing the reproductive ability of certain species. This language would increase the risk of pesticide-related deaths to several species, including bald eagles and waterfowl.

Interference with Tribal Self-Governance. The Administration objects to language that would penalize self-governance tribes in Washington State for asserting their rights in disputes with non-tribal owners of land within reservations. The language would unfairly preclude settlement of such disputes through dispute resolution mechanisms open to all citizens. The Department of the Interior is involved in negotiations with the State of Washington, the Lummi Tribe, and private property owners to resolve the water dispute on the Lummi reservation. This language would undermine the dispute resolution process.

Restrictions on Restructuring. The Administration objects to restrictions on the distribution of Bureau of Mines resources that would have the effect of overturning the long-planned streamlining of the Bureau, which was a recommendation of the National Performance Review. The Administration also objects to restrictions on the implementation of the Forest Service's restructuring plans which have also resulted

from the National Performance Review. These streamlining efforts would help to increase efficient agency operations and effective service.

Infringement on Executive Authority

There are several provisions in the Committee-reported bill that purport to require Congressional approval before Executive Branch execution of aspects of the bill. The Administration will interpret such provisos to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

General Provisions

The Administration objects to section 317 of the Committee-reported bill on the ground that this provision merely restates the obligation of officials to act within the law, and so does not accomplish anything except to create confusion as to its meaning.



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

September 18, 1995

THE DIRECTOR

Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on H.R. 1977, the Department of the Interior and Related Agencies Appropriations Bill, FY 1996, as passed by the House and by the Senate. As you develop the conference version of the bill, your consideration of the Administration's views would be appreciated.

The Administration is committed to balancing the Federal budget by FY 2005. The President's budget proposes to reduce discretionary spending for FY 1996 by \$5 billion in outlays below the FY 1995 enacted level. The Administration does not support the level of funding assumed by the House or Senate Committee 602(b) allocations and has serious concerns about the overall priorities reflected in the appropriations process. The Administration must evaluate each bill both in terms of funding levels provided and the share of total resources available for remaining priorities. Both the House and Senate versions of the bill are over \$1.7 billion below the President's request.

Both versions of the bill contain provisions that the Administration finds seriously objectionable. In their current forms, the House and Senate versions of the bill would drastically reduce essential services to Native Americans, impede scientific research, prevent the effective management of public lands, and hinder the implementation of recreation, energy, and cultural programs. For these reasons, discussed more fully below and in the enclosure, I would join the Secretary of the Interior in recommending that the President veto the bill if it were presented to him as passed by the House or as passed by the Senate.

*negotiating position
on Interior
602(b) - appropriate
Interior level
NSA
provisions - stop
level discussion*

Department of the Interior Funding Levels

The Administration supports the Senate's improved funding levels over the House-passed bill for certain key investments and agencies, such as the funding level provided for the Natural Resource Science Agency. However, the increased funding levels in the Senate bill have been achieved largely through unacceptable reductions to Bureau of Indian Affairs (BIA) programs.

Department of Energy

The Administration opposes the drastic reductions made by both the House and the Senate to the request for Energy Conservation, which would seriously disrupt several high-priority initiatives that would create jobs, save consumers money, and protect the environment. The Administration urges the conferees to increase the allocation for conservation programs, especially the weatherization initiative, climate change activities, and the Partnership for a New Generation of Vehicles.

Programs for Native Americans

Reductions made by the House and Senate would seriously impede the provision of critical tribal services related to government operations, law enforcement, housing, child welfare, education, vocational training, and tribal courts. The House-passed bill would reduce funding for the Bureau of Indian Affairs (BIA) by \$228 million below the FY 1996 request, and the Senate-passed bill would slash funding for the BIA by an additional \$207 million. Both the House and Senate versions of the bill would fail to provide the funds needed to maintain essential programs serving Native American children and youth through the Office of Indian Education.

Legislative Riders

The Administration is very concerned about the number of legislative riders contained in this bill and finds many of them very objectionable. The Administration urges the conferees to delete these provisions, including the following:

Tongass National Forest. The Senate provision would displace a scientific and public process with specific direction from Congress and ignore the scientific research that has been done on this plan. This would result in the extraction of timber in some of the most environmentally sensitive areas of the Tongass.

Mining Patent Moratorium. The Senate's provision would allow privatizing valuable Federally-owned land and mineral deposits, with only minimal returns to taxpayers, and

putting these deposits beyond the reach of any royalty payment to the Federal treasury. The Administration strongly supports the House action, consistent with the grandfather provision included in the FY 1996 request. The House provision would continue the patent moratorium and allow time to work on more comprehensive reforms.

Endangered Species Act. The Administration objects to the Senate's moratorium on endangered species listings and critical habitat designations and objects to the House and Senate reductions in funding for Endangered Species Act programs in the Fish and Wildlife Service (FWS). The Administration stresses the importance of continuing pre-listing and other activities under this Act.

Columbia River Basin Ecoregion Assessment Project. Curtailing this project so close to its completion would jeopardize the ability of the Forest Service and the Bureau of Land Management to complete land use plans pursuant to existing law, or even to maintain a sustainable flow of timber in the interior Columbia River basin. The project needs to be completed and funded fully, in order to provide certainty for the region and to avoid returning to the species-by-species crisis management of the past.

Grazing Regulations. The Senate bill contains a 90-day moratorium on grazing regulation changes that went into effect on August 21, 1995. The Congress was given an additional six months after promulgation of the changes last February to consider the grazing rule.

Energy Efficiency Standards. The Administration strongly opposes section 319 of the House-passed bill and section 320 of the Senate-passed bill, both of which would prevent the establishment of a wide range of appliance efficiency standards mandated by the Energy Policy Act of 1992. These prohibitions could cost consumers millions of dollars.

AmeriCorps. The House language would prohibit the use of funds provided in the bill for AmeriCorps national service projects. The Senate bill would at least allow agencies to request reprogramming of appropriated funds if the parent Corporation for National and Community Service receives funding in the VA, HUD, and Independent Agencies bill.

Timber Salvage. The Administration is actively implementing the timber salvage and related programs authorized in the rescission bill (P.L. 104-19) this summer. Any riders in this bill to redirect these programs would only disrupt the orderly and prompt implementation that is already underway and could jeopardize the ability to meet the objectives in the original legislation.

California Desert

The Administration strongly opposes the House action that would transfer funding for the newly created Mojave National Preserve from the National Park Service to the Bureau of Land Management. Such action would undermine implementation of the 1994 California Desert Protection Act. The Administration urges the conferees to follow the Senate approach concerning the Mojave National Preserve and to fund fully the levels requested in the FY 1996 Budget.

Cultural Agencies

The Administration objects to the proposed phase-out and the low levels of funding for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). The Administration urges the conferees to remove any phase-out language and approve additional funding for the NEA and NEH so that these agencies can continue to provide important cultural, educational, and artistic programs for communities across America.

Additional Administration concerns are contained in the enclosure. We look forward to working closely with the conferees to address our mutual concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Alice M. Rivlin", written in a cursive style.

Alice M. Rivlin
Director

Enclosure

Identical Letters Sent to Honorable Bob Livingston,
Honorable David Obey, Honorable Ralph Regula,
Honorable Sidney R. Yates, Honorable Mark O. Hatfield,
Honorable Slade Gorton, and Honorable Robert C. Byrd

ADDITIONAL CONCERNS
H.R. 1977 -- INTERIOR AND RELATED AGENCIES
APPROPRIATIONS BILL, FY 1996

(AS PASSED BY THE HOUSE AND BY THE SENATE)

Department of the Interior

Bureau of Indian Affairs (BIA). The House-passed bill would reduce funding by \$228 million below the FY 1996 request and \$48 million below FY 1995. Inadequate funds are provided for school operations, economic development, child protection, tribal courts, and reservation infrastructure needs. The Senate-passed bill would slash funding for the BIA by an additional \$207 million. This reduction is 23 percent below the President's request and 15 percent below the FY 1995 enacted level. The most severely affected would be tribal priority allocation programs -- those critical local tribal programs such as law enforcement, housing improvement, general assistance, Indian child welfare, and adult vocational training administered by the Tribe and over which Tribes can set their own priorities. The Administration urges the conferees to restore the programs to acceptable levels.

Office of Surface Mining. Both the House and Senate would reduce the Office of Surface Mining's (OSM's) Federal Regulatory Program budget by 21 percent. This action would impede current efforts to deal with environmental damage from surface coal mining. The Senate would also reduce OSM's Abandoned Mine Land Reclamation program operations by 21 percent and the Fee Compliance program by 54 percent. These actions would result in environmental degradation and would jeopardize the safety and livelihood of residents as well as the collection of over \$240 million in reclamation fees.

Natural Resource Protection/Land Management. The Administration does not support the House and Senate's action that would underfund natural resource protection and land management operations in the National Park Service (NPS), Bureau of Land Management, and Fish and Wildlife Service. Operating programs in these three bureaus would be reduced \$180 million, or seven percent, below the request.

Territorial and International Affairs. The House-passed bill would eliminate funding for technical assistance programs and would delete all funding for salaries and expenses of the Office of Insular Affairs. These reductions would eliminate the Department's institutional capability to

perform all insular functions for which the Secretary of the Interior is responsible, including its fiscal responsibilities to manage and to monitor the use of hundreds of millions in Federal funds provided to the insular areas. The Administration urges the conferees to support the Senate's position.

Unrequested/Low-priority Items. The Administration opposes congressional add-ons for unrequested, low-priority items, such as the Water Resources Research Institutes, at the expense of higher-priority needs. The Senate added \$50 million for land acquisition and construction projects not requested by the Administration, including \$24.9 million for 16 add-on National Park Service construction projects, many of which have no priority for construction and a few which have no planning completed.

Department of Education, Office of Indian Education

Although the Senate has restored a small portion of the reduction to Indian Education made by the House, both the House and Senate versions of the bill would fail to provide the funds needed to maintain essential programs serving Native American children and youth. Activities that would be terminated by both the House and the Senate include demonstrations of new approaches to the education of Indian children, fellowships for Indian post-secondary students, and Indian adult education. The Administration urges the conferees to restore funding for these activities.

Department of Agriculture, Forest Service

Stewardship Incentives Program. The Administration opposes the House's elimination and the Senate's severe restriction of funding for the Stewardship Incentives Program. These actions would cause a subsequent loss of leveraged funding from private landowners and States. This, in turn, would curtail the implementation of stewardship practices, such as reforestation and timber stand improvements, on thousands of acres of non-industrial private forest lands.

Department of Energy

The Administration opposes the decision of the House and the Senate to fund the Clean Coal Technology program at \$140 million over the request, particularly at the expense of higher-priority needs such as Energy Conservation. These additional funds will not be obligated in FY 1996 since there is approximately \$1 billion in unobligated funds in the account.

Smithsonian Institution and National Gallery of Art

The House and Senate would make sizable reductions in the salaries and expenses accounts for the Smithsonian Institution and the National Gallery of Art. A large portion of these accounts funds salaries for employees, so the reductions could require reductions-in-force. Similar reductions are envisioned by the Administration as part of its long-term streamlining process, and we urge a similar approach by the Congress to allow the agencies time to plan adequately for the downsizing and restructuring of their workforce. The Administration urges support for the Senate position to provide funding for Smithsonian's Cultural Resources Center of the National Museum of the American Indian, and to support the proper repair and renovation of buildings for the Smithsonian and National Gallery.

Infringement on Executive Authority

There are several provisions in the House and Senate versions of the bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. The Administration will interpret such provisos to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

Objectionable Language Provisions

The Administration objects to several provisions that seek to micromanage agency activities and would impede the ability of the agencies to accomplish their work efficiently and effectively. Some specific concerns related to these objectionable provisions include Refuge Management restrictions, interference with tribal self-governance, and restrictions on Bureau of Mines restructuring.

General Provisions

The Administration objects to section 317 of the Senate-passed bill on the ground that this provision merely restates the obligation of officials to act within the law, and so does not accomplish anything except to create confusion as to its meaning.



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

July 18, 1997

THE DIRECTOR

The Honorable Ted Stevens
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter provides the Administration's views on H.R. 2107, the Interior and Related Agencies Appropriations Bill, FY 1998, as passed by the House. As the Senate develops its version of the bill, your consideration of the Administration's views would be appreciated.

The House-passed bill provides requested funding for many of the Administration's priorities. However, as discussed below, the Administration will seek restoration of certain of the House's reductions to the President's requests. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the Senate toward achieving acceptable funding levels. The Administration is committed to working with the Senate to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, the House has provided unrequested funds to reimburse the Forest Service's Knutson-Vandenberg Trust Fund (in excess of anticipated needs), and the House has not rescinded Clean Coal Technology funds at the level proposed in the FY 1998 Budget. We urge the Senate to reduce funding for lower priority programs or for programs that would be adequately funded at the requested level, and to redirect funding to programs of higher priority.

National Foundation on the Arts and the Humanities

If the bill as passed by the House were presented to the President, the President's senior advisers would recommend that he veto the bill due to the elimination of funding for the National Endowment for the Arts (NEA). The President's senior advisers would also recommend veto of the bill should any amendment be added that would terminate the NEA and create block grants for the arts. The NEA performs a critical Federal role in promoting the arts. Elimination of the funding would prevent the NEA from assisting communities across America in providing important cultural, educational, and artistic programs. The Administration urges the Senate to continue support for the NEA and to provide funding at the requested level of \$136 million.

The Administration is also concerned about the funding level provided by the House for the National Endowment for the Humanities, which is \$26 million below the President's request. We urge the Senate to provide funding for NEH at the President's requested level of \$136 million.

Department of the Interior

Land Acquisition. The Administration strongly objects to the House's failure to provide \$700 million in FY 1998 budget authority from the Land and Water Conservation Fund to finalize priority Federal land acquisitions and exchanges as agreed to in the Bipartisan Budget Agreement (BBA) and provided for in the budget resolution. Congress must include the \$700 million request in order to comply with the BBA. Furthermore, as the bill moves through the process, the Administration will strongly support efforts to approve this funding, free of authorization requirements since they are not necessary and could indefinitely delay completion of these projects.

The budget agreement assumes that up to \$315 million would be available from the Land and Water Conservation Fund to finalize priority Federal land exchanges. The Administration's top two priorities are protecting Yellowstone National Park by acquiring private lands associated with the New World Mine (MT) project and acquiring old-growth redwoods and adjacent lands in the Headwaters Forest (CA). Completing these two priority purchases was the main impetus for including additional land acquisition funds in the final agreement. The additional \$385 million would fund the acquisition of critical inholdings, habitat, and recreation areas from willing sellers.

National Park Service (NPS): Everglades and Elwha River Restorations. While the House has provided requested funding for Everglades (FL) land acquisition, the Administration objects to the level provided for base NPS land acquisition (\$18 million below the base funding assumed in the BBA). We specifically object to the elimination of both non-Federal acquisition funds for South Florida and advance appropriations, including up-front construction funding for restoration of the Elwha River (WA) Ecosystem and Fisheries. Acquisition of Elwha and Glines Canyon dams at Olympic National Park is an essential first step in the restoration of the ecosystem authorized by the Elwha River Ecosystem and Fisheries Restoration Act of 1992. Up-front funding for restoration activities is necessary to meet the 1992 Act's requirement that the Secretary of the Interior determine that funds are available for restoration before proceeding with acquisition of the dams. The Administration urges the Senate to provide funding for this priority restoration project within the amount requested by the Administration for base Federal land acquisition, and allow land acquisition funds provided for South Florida to include non-Federal acquisition of important water storage areas.

Native American Program Funding. The House bill provides funding for essential, reservation-level Bureau of Indian Affairs (BIA) Tribal Priority Allocation programs at the President's requested level, the level included in the Bipartisan Budget Agreement. However, the Administration is concerned about House reductions to the requests for other programs critical to Indian country, such as school operations, construction of a criminal justice facility, water rights negotiations, and environmental cleanups, that could result in serious and costly liability problems. In addition, the Administration is concerned that reductions to the Office of

the Special Trustee for American Indians could delay implementation of needed trust fund management reform. The Administration urges the Senate to increase funding to the extent possible for these important trust responsibilities.

Native American Program Riders. The Administration understands that several language provisions may be added in Subcommittee action, including those that would prohibit any new Indian gaming compacts, prevent the Secretary from issuing procedures or regulations for tribal/State gaming compacts, and remove or severely limit tribal sovereign immunity. The Administration would oppose any such provisions and urges the Senate not to include them in the bill. The Administration appreciates House action against including language that would have prohibited the Secretary from taking land into trust for any tribe. We urge the Senate not to consider similar language.

The Administration also opposes section 316 of the House-passed bill, which would prohibit the development and implementation of any interim or final rule regarding jurisdictional issues pursuant to Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). This moratorium would, in effect, for a third consecutive year override ANILCA without any congressional hearings, suspending public review and comments on the rule. It would prevent the Departments of the Interior and Agriculture from managing subsistence fishing programs on behalf of Alaska Natives, as required by a 1995 decision by the Ninth Circuit Court of Appeals (the Katie John case). Ultimately, the Administration supports the transfer of the subsistence program back to the State of Alaska.

World Heritage and Man in the Biosphere Programs. The House-passed bill would prohibit the Department from providing funding in FY 1998 to the World Heritage and Man in the Biosphere programs. The Administration strongly objects to this provision. The World Heritage program involves the nomination by national governments of preeminent sites within their respective countries of natural and cultural value. The benefits of this program far exceed the small amount of funding. Similarly, the Man in the Biosphere Program results in cooperative and scientific exchange of direct benefit to Departmental managers and the American taxpayer. These benefits include coho salmon restoration, protection of water quality at Mammoth Cave National Park (KY), and sharing of geographical data. Neither of these programs cede Federal, State, or local authority over land use decisions, nor do they affect private property rights as the designation is purely honorific.

Indian Health Service (HHS)

The House-passed bill funds much of the President's requested \$2.122 billion for the Indian Health Service (IHS). To the extent possible, we urge the Senate to include an additional \$36 million to restore IHS funding to the requested level. This would provide the full amount requested for Contract Support Costs, Contract Health Services, and funding for special health initiatives such as child abuse prevention and women's health.

The Administration appreciates the House's action to provide funding for beginning the construction of the health facility at Polacca, Arizona, for the Hopi Tribe. However, the Administration is very concerned about the lack of funding in the House-passed bill for the Fort Defiance hospital for the Navajo Tribe. Funding for the replacement health care facility at Fort Defiance would provide a comprehensive health program, including limited inpatient services for gynecological and general ambulatory surgery, intensive care, and adolescent psychiatry. The new hospital would replace the existing main hospital building, which was constructed in 1938 and is functionally inadequate to meet the needs of the current Navajo population. The Administration recommends, and urges the Senate to support, a full-funding commitment for both facilities.

The Administration objects to a provision of the House-passed bill that could prohibit tribes from leaving the regional health delivery structure that currently exists in Alaska. The Administration is concerned that the provisions, if implemented, would prevent tribal governments from participating in self-determination contracting and compacting pursuant to the Indian Self-Determination and Education Act (P.L. 93-638). The Administration supports the rights of tribal governments under self-determination and asks that the Senate consider this position as it develops its version of the bill.

Department of Energy

Energy Conservation. The Administration strongly objects to the House's reductions to the request for Energy Conservation and to the House's consolidation of utility-scale gas turbine development activities into the Energy Conservation program. This transfer obscures the true size of the House's reductions to the President's Energy Conservation budget. The nominal reduction in this account is \$63 million, but because the account includes \$31 million for gas turbine development previously funded in the Fossil Energy Research and Development account, the true reduction to requested energy conservation activities is \$94 million. The reductions to Building Technologies would hurt the Nation's international climate change commitments, and the cuts in Transportation would damage the efforts of the Partnership for a New Generation of Vehicles (PNGV) to move to the next phase of technology development and systems integration. Within the transportation area, the House has also included an increase of \$10 million over the request for heavy vehicle technologies. This add-on would disperse the program's scarce resources away from the highest-priority activities and contradicts the House's stated interest in making the program more focused. These funds should be redirected toward the requested PNGV activities. The Department's Energy Conservation program helps to create jobs, save money, and reduce pollution.

Strategic Petroleum Reserve. The Administration objects to the House's proposed non-emergency sale of oil from the Strategic Petroleum Reserve in FY 1998 in order to fund routine operations and maintenance at the Reserve. The President's budget requests \$209 million in new budget authority to fund these activities. The Strategic Petroleum Reserve is the cornerstone of the Nation's energy security. The Administration is conducting a study of policy issues related to

the Reserve, which will be completed this Fall. The study will include analysis of the appropriate use of the Reserve in emergency and non-emergency situations and will be used to guide Strategic Petroleum Reserve policies in future years.

Clean Coal Technology. The Administration recommends that the Senate rescind \$136 million in balances within the Clean Coal Technology program. (The FY 1998 Budget requested that \$153 million be rescinded, and P.L. 105-18 included a rescission of \$17 million of that amount.) The Administration objects to the House's decision not to advance appropriate \$50 million in FY 1999 funds for a demonstration project in China. This project would demonstrate a coal-based technology that can greatly reduce CO2 and other pollutants, thereby limiting the environmental impacts of industrialization in developing countries with large coal reserves. The Administration requests that \$136 million in available balances be rescinded, and that \$50 million be advance appropriated for FY 1999 to fund the China project.

Department of Agriculture and Forest Service Micromanagement

The Administration objects to the micromanagement of Executive Branch authorities that the House-passed bill would impose upon the Forest Service and the Office of the Secretary. The Administration believes that this inordinate level of micromanagement is inappropriate and would impede the ability of the Department to operate effectively. For example, the bill includes highly objectionable language that would terminate the Secretary of Agriculture's authority to have a Western Director and a special assistant in the West, who facilitate the resolution of complex issues and provide important feedback to the Secretary about concerns of Western States and citizens.

In addition, the Administration believes that the House bill's legislative direction to Federal land managers to analyze economic and social conditions, culture, and customs of communities in the Draft Environmental Impact Statements for the Interior Columbia River Basin Ecosystem Management Project (WA, OR, ID, MT) is premature and unnecessary. Under the National Environmental Policy Act, Federal agencies are responsible for adequately evaluating the social and economic effects of the proposed action and alternatives. The draft environmental impact statements are now in the public comment period. The agencies will evaluate the need for further information and analysis, including preparation of a supplemental impact statement, based on those comments.

The House-passed bill would further micromanage the Forest Service with specific provisions prohibiting any reorganization, office closure, or other cost saving proposals without prior approval of the Committees. The Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha. In addition, the Committee Report would require the Forest Service to complete -- most by January 1998 -- over 15 different reports to the Congress.



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

June 25, 1997

THE DIRECTOR

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Department of the Interior and Related Agencies Appropriations Bill, FY 1998, as reported by the Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Subcommittee has developed a bill that provides requested funding for many of the Administration's priorities. However, as discussed below, the Administration will seek restoration of certain of the Subcommittee's reductions. We recognize that it will not be possible in all cases to attain the Administration's full request and will work with the Committee toward achieving acceptable funding levels. The Administration is committed to working with the Committee to identify reductions in the bill in order to find offsets for the restoration of funds that the Administration seeks. For example, unrequested funds have been provided to reimburse the Forest Service's Knutson-Vandenberg Trust Fund, and the Subcommittee has not rescinded Clean Coal Technology funds at the level proposed in the FY 1998 Budget. We urge the Committee to reduce funding for programs that would be adequately funded at the requested level or for lower priority programs, and redirect funding to programs of higher priority.

National Foundation on the Arts and the Humanities

The Administration strongly objects to the Subcommittee's drastic reduction in funding for the National Endowment for the Arts (NEA). The President's senior advisers would recommend that he veto the bill if this funding level were to remain. The proposed \$10 million appropriation, \$126 million below the President's request, would make it impossible for the NEA to continue to provide important cultural, educational, and artistic programs for communities across America. The Administration urges the Committee to approve funding for the NEA at the level proposed in the President's budget and to remain committed to the continuation of the agency.

In addition, we are concerned about the funding level proposed for the National Endowment for the Humanities (NEH), which is \$26 million below the President's request.

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Department of the Interior

Land Acquisition. The Administration strongly objects to the Subcommittee's failure to provide \$700 million in FY 1998 budget authority from the Land and Water Conservation Fund to finalize priority Federal land acquisitions and exchanges as agreed to in the Bipartisan Budget Agreement (BBA) and provided for in the budget resolution. Congress must include the \$700 million request as the bill moves through the process in order to comply with the BBA.

The budget agreement specifies that up to \$315 million would be available from the Land and Water Conservation Fund to finalize priority Federal land exchanges. The Administration's top two priorities are protecting Yellowstone National Park by acquiring private lands associated with the New World Mine project and acquiring old-growth redwoods and adjacent lands in Headwaters Forest. Completing these two priority purchases was the main impetus for including additional land acquisition funds in the final agreement.

National Park Service (NPS): Everglades and Elwha River Restorations. The Administration appreciates the Subcommittee's efforts to provide the requested funding for Everglades (FL) land acquisition, but objects to the level provided for base NPS land acquisition (\$48 million below the level contained in the BBA). We specifically object to the elimination of both non-Federal acquisition funds for South Florida and advance appropriations, including up-front construction funding for restoration of the Elwha River (WA) Ecosystem and Fisheries. Acquisition of Elwha and Glines Canyon dams at Olympic National Park is an essential first step in the restoration of the ecosystem authorized by the Elwha River Ecosystem and Fisheries Restoration Act of 1992. Up-front funding for restoration activities is necessary to meet the 1992 Act's requirement that the Secretary of the Interior determine that funds are available for restoration before proceeding with acquisition of the dams. The Administration urges the Committee to reallocate funding for this priority restoration project within the amount requested by the Administration for base Federal land acquisition, and allow land acquisition funds provided for South Florida to include non-Federal acquisition of important water storage areas.

Native American Program Funding. The Administration commends the Subcommittee for funding essential, reservation-level Bureau of Indian Affairs (BIA) Tribal Priority Allocation programs at the President's requested level, the level included in the Bipartisan Budget Agreement. However, the Administration is concerned about reductions below the request to other programs critical to Indian country, such as school operations, construction of a criminal justice facility, water rights negotiations, and environmental cleanups, could result in serious and costly liability problems. In addition, the Administration is concerned that reductions to the Office of the Special Trustee for American Indians could delay implementation of needed trust fund management reform. The Administration urges the Committee to increase funding to the extent possible for these important trust responsibilities.

Native American Program Riders. The Administration understands that there may be an attempt to add a language provision to the bill in Committee that would prohibit the Secretary of the Interior from taking land into trust for any tribe that had not entered into a binding agreement with State and local governments regarding the tribe's collection and payment of State and local sales and excise taxes on retail purchases made on the land by non-tribal members. Similar to a provision rejected by Congress last year, this would undermine tribal sovereignty and the ongoing

government-to-government cooperation currently underway between a number of tribes and States that have voluntarily negotiated, or are currently negotiating, joint taxation agreements to accommodate the needs and rights of each party. The similar provision last year was among the problems that led the Secretary of the Interior to recommend a veto of the House-passed FY 1997 appropriations bill. The Administration strongly opposes this provision and urges the Committee not to include it in the bill.

The Administration also opposes section 316 of the Subcommittee bill, which would prohibit the development and implementation of any interim or final rule regarding jurisdictional issues pursuant to Title VIII of the Alaska National Interest Land Conservation Act (ANILCA). This moratorium would, in effect, for a third consecutive year override ANILCA without any congressional hearings, suspending public review and comments on the rule. It would prevent the Departments of the Interior and Agriculture from managing subsistence fishing programs on behalf of Alaska Natives, as required by a 1995 decision by the 9th Circuit Court of Appeals (the Katie John case). Ultimately, the Administration supports the transfer of the subsistence program back to the State of Alaska.

Department of Health and Human Services

Indian Health Service. The Administration appreciates the Subcommittee's efforts to find much of the President's requested \$2,122 million for the Indian Health Service (IHS). To the extent possible, we urge the Committee to include an additional \$36 million to restore IHS funding to the requested level. This would provide \$12 million for Contract Support Costs and funding for special health initiatives such as child abuse prevention and women's health.

The Administration appreciates the Subcommittee's action to provide funding for beginning the construction of the health facility at Polacca, Arizona, for the Hopi Tribe. However, the Administration is very concerned about the lack of funding for the Fort Defiance hospital for the Navajo Tribe. Funding for the replacement health care facility at Fort Defiance would provide a comprehensive health program, including limited inpatient services for gynecological and general ambulatory surgery, intensive care, and adolescent psychiatry. The new hospital would replace the existing main hospital building, which was constructed in 1938 and is functionally inadequate to meet the needs of the current Navajo population. The Administration recommends, and urges the Committee to support, a full-funding commitment for both facilities.

Department of Energy

Energy Conservation. The Administration objects to the Subcommittee's reductions to the request for energy conservation and to the Subcommittee's consolidation of utility-scale gas turbine development activities into the Energy Conservation program. This transfer hides the true size of the Committee's reductions to the President's Energy Conservation budget. The nominal reduction in this account is \$71 million; but because the account includes \$31 million for gas turbine development previously funded in the Fossil Energy Research and Development account, the true reduction to requested energy conservation activities is \$102 million. The reductions to Building Technologies would hurt the Nation's international climate change commitments, and the cuts in Transportation would damage the efforts of the Partnership for a New Generation of

Vehicles (PNGV) to move to the next phase of technology development and systems integration. Within the transportation area, the Subcommittee has also included an increase of \$10 million over the request for heavy vehicle technologies. This add-on would disperse the program's scarce resources away from the highest-priority activities and contradicts the Committee's stated interest in making the programs more focused. These funds should be redirected toward the requested PNGV activities.

Strategic Petroleum Reserve. The Administration objects to the Subcommittee's proposed non-emergency sale of oil from the Strategic Petroleum Reserve in order to fund routine operations and maintenance at the Reserve. The President's budget requests \$209 million in new budget authority to fund these activities. The Strategic Petroleum Reserve is the cornerstone of the Nation's energy security and should not be used to raise revenues. The Administration is conducting a study of policy issues related to the Reserve, which should be completed this fall. The study will include analysis of the appropriate use of the Reserve in emergency and non-emergency situations.

Clean Coal Technology. The Administration recommends that the Subcommittee rescind \$153 million, as requested in the FY 1998 Budget. The Administration objects to the Subcommittee's decision not to advance appropriate \$50 million in FY 1999 funds for a demonstration project in China. This project would demonstrate a coal-based technology that can greatly reduce CO₂ and other pollutants, thereby limiting the environmental impacts of industrialization in developing countries with large coal reserves. The Administration requests that \$153 million in available balances be rescinded, and that \$50 million be advance appropriated for FY 1999 to fund the China project.

Fossil Energy Research and Development. The Administration objects to the Subcommittee's proposal to fund the Fossil Energy Research and Development fuel cell program at \$9 million less than the \$37 million requested to continue strong national programs to promote high efficiency molten carbonate and solid oxide fuel cell systems. The funds can be restored by reducing the Subcommittee's proposed increases to the coal and advanced turbine systems programs.

Department of Agriculture and Forest Service Micromanagement

The Administration objects to the micromanagement of Executive Branch authorities that the Subcommittee bill would impose upon the Forest Service and the Office of the Secretary. The Administration believes that this inordinate level of micromanagement is inappropriate and would impede the ability of the Department to operate effectively. For example, the Subcommittee bill includes highly objectionable language that would terminate the Secretary of Agriculture's authority to have a Western Director and a special assistant in the West, who facilitate the resolution of complex issues and provide important feedback to the Secretary about concerns of Western States and citizens. The Subcommittee bill would further micromanage the Forest Service with specific provisions prohibiting any reorganization, office closure, or other cost saving proposals without prior approval of the Committees. In addition, the Subcommittee Report would require the Forest Service to complete — most by January 1998 — over 15 different reports to the Congress.

Woodrow Wilson Center

The Administration strongly recommends restoring the \$5.8 million requested in the President's budget for the Woodrow Wilson Center. The Center was established by Public Law 90-637 as the Nation's memorial to the twenty-eighth President. The law created a Board of Trustees to maintain and administer the Center, including the provision of facilities, staffing, and appointment of scholars, and where appropriate, to provide stipends, grants, and fellowships to such scholars, from the United States and abroad. The Administration and the Congress have supported the Center since 1968.

Smithsonian Institution

The Administration strongly recommends that the Committee provide the full \$58 million requested for construction of the Mall Museum of the National Museum of the American Indian. The National Museum of the American Indian was created by Public Law 101-185, which requires that two-thirds of the construction funds for the Mall Museum shall come from Federal appropriations and one-third from a national fund-raising campaign. As of January 1997, the national campaign had received cash and pledges for the \$36.7 million required to meet the non-appropriated portion. The FY 1998 Budget requests \$58 million for the Federal share for the construction of the Mall Museum.

We look forward to working with the Committee to address our mutual concerns.

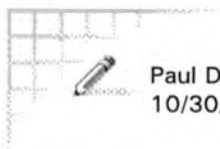
Sincerely,



Franklin D. Raines
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable Ralph Regula,
and The Honorable Sidney R. Yates

file NEA



Paul D. Glastris
10/30/98 03:06:37 PM

Record Type: Record

To: Katharine Button/WHO/EOP

cc:

Subject: for Melanne Verveer

Melanne,

It was good talking to you about arts funding and parent education.

Below is a short description of the arts idea, plus a copy of the original article we published in U.S. News & World Report. By the way, the article notes that Texas has somehow figured out how politically to tax entertainment (plus tobacco and gasoline) to create an arts endowment.

→ **-How to save the National Endowment for the Arts:** The NEA isn't really an endowment, in the sense that it is not funded by the returns from a large investment portfolio. It's essentially a standard-issue federal agency, funded by annual appropriations. And every year, Democrats struggle to wrest an ever-shrinking annual appropriation. Here's how to end this struggle: impose on the entertainment industry (whose executives are often the biggest supporters of federal arts funding) a 1/2 percent federal sales tax, to sunset after three years. Then put the \$6 billion proceeds into a professionally-managed investment fund, the proceeds from which (about \$300 million at typical market returns) would be spent by the NEA. Never again would Congress have to appropriate a dime. And in essence you'd be taxing video games, horror flicks, rap music, and Married With Children to pay for regional symphonies and childrens' theater.

(here is the article)

Portrait of the artist as a young
waiter. Feed the muse from a real
endowment

The National Endowment for the Arts, our federal funding agency for culture, has an anomaly in its name: the word endowment. Since it was founded in 1965, the NEA has never been a true endowment--that is, a huge fund whose earnings in interest and dividends are used to support the arts. Rather, it is funded like most other government agencies, through annual appropriation by Congress. This affords conservative lawmakers a yearly opportunity to

grandstand about the occasional bizarre NEA-sponsored work of art as a pretext for slashing the agency's funding. Consequently, the NEA's budget has plummeted from \$176 million in 1992 to under \$100 million today. The only way to stop this death spiral is to abandon the NEA and create a true endowment, funded by a short-term tax on entertainment, including the cultural corner that conservatives complain about most: Hollywood.

Two states have already started in this direction. Missouri and Texas have begun building \$200 million endowments, which eventually will generate enough cash to remove arts funding from the state budget entirely. Eight other states are also creating more-modest endowments to supplement appropriations.

Both Missouri and Texas are building their endowments by combining tax revenues and private donations. In Missouri, one quarter of the money will come from a state income tax on visiting artists and athletes, and three quarters from private fund-raising. In Texas, the public portion will come from taxes on amusements, cigarettes, hotel occupancy and gasoline; the private portion, from fund-raising and merchandising.

Entertaining taxes. We should follow this model of public-private partnership. In her book *Art Lessons*, Alice Goldfarb Marquis suggests a ½ percent federal tax on commercial entertainment and professional sports; even such a tiny tax, authorized for only three years, would bring in \$6 billion. A private campaign over those three years could generate an additional half billion from foundations, corporations and individuals. At 6 percent interest, a \$6.5 billion endowment would earn \$390 million per year. Plowing \$50 million back into the principal would leave \$340 million a year for arts funding--nearly double the NEA's budget in its most beneficent years. To maximize growth, the new endowment should be invested not in government bonds but in equities, which are riskier but offer higher returns. The investment should be managed by professionals in the private sector.

It will be a political challenge to persuade Congress to hand over \$6 billion in tax dollars to a private organization--with no federal strings attached. But the strategy is designed to appeal to a broad range of lawmakers. There's the obvious appeal of taxing controversial entertainment like gangsta rap and adult fare from Hollywood in order to support arts institutions like symphonies and theaters. In fact, the tax could be structured as a "disincentive" to "immoral" culture by having it fall heaviest on adult entertainment. The endowment's charter also could be structured to allow funds for institutions rather than individual artists. (The NEA is already moving this way.) Fiscal conservatives should also be attracted to the idea of levying one small tax for just three years. And few lawmakers will resist ending the bitter budget fights, contentious government oversight and the politicizing of the arts.

So let the government collect a tax, then get out of the way. The creation of a true arts endowment can be a real collaboration between the people and their government--just once, but forever.

BY JOSEPH WESLEY ZEIGLER

Zeigler is an arts consultant and author of *Arts in Crisis: The National Endowment for the Arts Versus America*.

Have a comment? Want to read what others have to say? [Click here.](#)

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Paul D. Glastris
10/30/98 04:04:17 PM

Record Type: Record

To: Katharine Button/WHO/EOP

cc:

Subject: more for Melanne

Melanne,

Here are seven more policy ideas we didn't discuss. Maybe you will find one or two of them useful.

Thanks,

Paul

1-Two ways to get more and better teachers into public schools: Our 100,000 teacher initiative was only the first step. American public schools will need two million more teachers, and smarter ones, in the years ahead. Here are two actions the POTUS can take now to make that happen:

1-Become a teacher and we'll forgive your student loans: Under the income-contingent loan law, a person with such a loan who earns a modest income can have his or her debt forgiven after 25 years. What few people know, but I'm told, is that the POTUS can shorten that period by executive order. So imagine this: the POTUS announces that in order to lure higher-income workers into lower-income teaching jobs, he is unilaterally shortening the forgiveness period to five years. That means a young lawyer can quit the job he hates, become a teacher, convert his onerous student loan payment to a more manageable income-contingent payment, and owe **nothing** after five years if he stays with teaching (or a similarly lower-paying job). This offer could be made good for a limited period of time, to deal with the teacher shortage emergency and limit the out year costs.

2-Troops to teachers: The Pentagon's Troops to Teachers program encourages retiring soldiers to become public school teachers via alternative certification. According to a new study by the National Center for Educational Information, these ex-soldiers who go into teaching tend to have precisely the skills currently in short supply. They are disproportionately minority; they know and enjoy math and science; they are willing to work in the inner cities. Compared to rank-and-file teachers, they are more likely to believe in higher academic standards and in national standardized tests. **Action:** At the very least, the program is worth highlighting in a POTUS speech--it's a government success story nobody knows about. It's also worth exploring what (if anything) can be done to improve and/or expand the program. For instance, can it be adapted to work with other groups of highly-trained professionals where

early retirement is normal, such as police forces?

2-Public schools at work--I think this one is already circulating within the DPC. The idea is to encourage "satellite learning centers": public schools, built by employers on company grounds for employees' children but staffed and run by the local public school district. About 30 such schools already exist around the country. Like a Swiss Army knife, satellite learning centers are a single policy tool that can work on a variety of pressing problems. They add much needed classroom space to overcrowded school districts, paid for by employers. They allow parents to spend more time with their children. They increase learning by encouraging parental involvement at school. They allow for more race and class mixing (workplaces tend to be more integrated than neighborhoods). They give corporations more of a stake in the local community. And so on. The administration has been reluctant to jump on this for fear it would undermine efforts to get Congress to support our larger school modernization agenda. But with that battle behind us, there seems little reason not to add the public-schools-at-work proposal to our overall school modernization agenda (the same federally-subsidized bonds that would fund modernization could be used to build satellite learning centers, though a federal tax credit would probably be more cost-effective).

3-How to keep elite colleges diverse, the Army way: The Clinton administration will continue to support the right of colleges and universities to take race into account for admissions purposes. And rightly so, because it's clear from studies--including the new book by Derek Bok and William Bowen--that diversity works. The problem is that courts and ballot measures have chipped away at the legal basis of race-conscious admissions policies, and will probably continue to do so. What's needed is a second front for affirmative action--a way of creating a supply of minority students whose test scores and academic performance are high enough that they can be admitted to elite schools without racial preferences. Such a system already exists in the U.S. military. The Army, for instance, has a larger proportion of blacks in its upper ranks than almost any other large institution in America. It's secret: The U.S. Military Academic Preparatory School (USMAPS) in New Jersey. Every year, USMAPS accepts hundreds of promising but academically ill-prepared minority high school graduates. These cadets go through a grueling 10-month course of training in reading, math, military discipline, and good study habits. Cadets who make it through go on to West Point, their SAT scores having risen 110 points higher than when they entered USMAPS. Just as important, USMAPS cadets graduate from West Point at the same or higher rate than their West Point classmates who didn't go through USMAPS (by contrast, blacks at elite civilian colleges graduate at substantially lower rates than whites). **Action:** The POTUS should empanel a commission of military generals and elite college presidents to explore the possibility of adapting the USMAPS model to civilian higher education.

4-Saving lives with REGO's emergency weather radio campaign: Imagine if every home in America had a radio that would switch itself on and broadcast emergency warnings whenever

severe weather or other disasters loomed?

The Vice President's REGO office has a cost-effective plan to make this idea a reality. As part of a larger effort to publicize our ramped-up reinventing government efforts, we should move immediately after the elections to announce this new plan. The idea is to improve our ability to warn citizens of impending disasters--tornadoes, hurricanes, chemical spills, etc. The National Weather Service has gotten much better at predicting these disasters. And it operates an emergency weather radio warning system to get the message out quickly. But the system has two problems:

1-because of a lack of broadcast towers, the system covers only 75 percent of the U.S. population. For instance, two of the 22 Texas counties declared disaster areas because of flash flooding last week are outside the range of the radio warning system. Had these counties been covered, lives might have been saved.

2-Even in areas covered by the system, many people don't hear the warnings for a simple reason: They don't happen to have their radios on, and if they do, they aren't tuned to the Weather Service channel.

Four years ago, the Vice President proposed solving these problems in two ways. First, build more towers via public-private partnerships. Second, encourage the development of technologies embedded in various household devices (televisions, clock-radios, smoke detectors) that would "switch on" automatically and broadcast National Weather Service emergency warnings.

This effort has languished, largely because the public-private partnership route resulted in precious few towers being built. But in the last few weeks, the folks at REGO have figured out a plan to have the government build enough towers to cover 95 percent of the nation for only \$65 million--less than a quarter of the \$300 million what NOAA had originally estimated.

Action: The week after next month's election, the Vice President announces a new, low-cost-high-impact radio tower-building initiative. One possibility: he makes the announcement standing in a Texas county hit by flash floods but not covered by the current radio warning system with **Gov. George W. Bush** standing behind him. The press will eat it up: it will be seen as the first duel of the 2000 presidential race. And it will show the VP in a perfect light: acting quasi-presidential, nonpartisan, action-oriented, doing something average voters care about, promoting his most important project, REGO (and the part of REGO widely seen as most successful: disaster response), and doing it all in a way that makes him look like G.W. Bush's big brother. If Texas proves too politically problematic, we could certainly pick another venue. We should also think of some initiative he could announce--including new regulations--that would spark the private sector into offering the new technology in TVs, radios, and smoke detectors. I'm told that all mobile homes sold in the state of Georgia must have weather service radios and that the FCC will require these devices on digital TV.

5-The "Ed McMahon Solution" to the Census dilemma:

In case we lose our battle to do sampling, we need a fall back strategy. Here's one:

turn the 2000 Census into a sweepstakes. Fill out your Census form, win valuable prizes. This idea may sound preposterous, but it's not. It has been taken seriously by demographers for decades. I've talked to experts at the National Science Foundation and in academia who think it would work, or at least think it's worth experimenting with.

First, it could save hundreds of millions or even billions of dollars if it increases the "initial response rate"—i.e. the percentage of households that fill out and send in their Census form without having to be prodded. Individuals would be marginally more willing to send in their forms if it means a chance to win a yacht or a \$10 million jackpot. A small part of the monetary savings would go to fund the prizes.

Second, by increasing the initial response rate, a sweepstakes would make the Census itself more accurate (those who respond the first time tend to give more accurate data), thus reducing the need to do sampling. With a smaller population of non-responders, the Census Bureau would not have to hire so many "enumerators": the folks who knock on doors, trying to get non-responders to cooperate. Fewer enumerators would mean those hired are likely to be better qualified, and there would be more money to train them. That, too, would mean a more accurate Census.

Third, a sweepstakes would very likely increase responses from those groups that sampling is meant to count: Minorities and the poor. These are the groups that play the lottery in disproportionate numbers.

Fourth, there is a value in making the Census fun for average people. For better or worse, pop culture is the common currency of American life, and there is no better way to turn the Census into a pop culture event (as opposed to a Nightly News event) than adding on a sweepstakes. The extra free media coverage the Census would garner would further induce the public to cooperate.

Traditionally, there have been five main objections to the Census-as-sweepstakes idea. First, it's claimed that the idea would put the federal government in the position of "promoting gambling." But that's a false comparison: a sweepstakes is not gambling, like a lottery, because the entrant isn't putting any money on the line. Indeed, a Census sweepstakes would generate all the positive national excitement of, say, a nationwide Powerball drawing, with none of the underlying sin or the sense of the government ripping off the poor.

Second, it's said that rewarding citizens for doing what is fundamentally their duty (by law everyone is supposed to fill out a Census form) belittles that duty. But we pin medals on soldiers who do their duty without belittling them or the armed forces. Top-performing civil servants don't seem to feel belittled when they receive bonus pay.

Third, it's argued that the sweepstakes idea will set a precedent that will push us closer to a practice that OMB has long opposed: paying citizens to cooperate with surveys. Yet that's another false comparison: the Census-sweepstakes idea (which would **save** money) is not the same as the paying-for-surveys idea (which would cost money), and there's no reason believe that one must lead to the other.

Fourth, there's the fear that people anxious to win the sweepstakes will submit multiple forms. This is a real danger, but there are numerous methods of defending against this possibility.

Finally, there is the fact that most of those who are undercounted **do** eventually fill out their Census forms, but do so inaccurately (to hide an illegal immigrant living in the home, for instance). True enough, but the sweepstakes idea would help, at least on the margins, if there

were one well-publicized rule: fill out your form inaccurately and you won't be allowed to collect the jackpot.

Of course sampling is the best answer. The point is, we might not be allowed to sample, and a sweepstakes would at least partially solve the problem.

Action: It's probably too late to have a national Census sweepstakes for Y2K, even if we wanted to. But there's still time to test the idea--for instance, a Census sweepstakes limited to one or two states with traditionally low response rates. Such a modest test would still garner tremendous national media attention, thereby increasing national public interest in, and cooperation with, the Census as a whole.

And it would be a blast.

6-Non-nursing-home care for the aged: Tom Freedman has suggested having the POTUS back a bill by Rep. Stark that would allow, in some cases, Medicare coverage for **adult day care**. This is a great idea, with modest costs and deep resonance with voters--growing numbers of whom are choosing to care for aging and Alzheimers-suffering spouses and family members at home but who also need to work.

Here are two other complimentary ideas:

1-we should include something on **respite care**. The idea is to give burned-out caregivers a night off by providing a bed and support for mom or dad, usually in a nursing home. It's a smaller, less costly service than everyday daycare, but it would be extraordinarily popular with voters (my wife's aunt is shopping around for such a place for her husband who has Alzheimers, and she can't find anything decent). The short-lived 1988 Catastrophic Care act had a respite care benefit, I believe, as did the Clinton health care reform plan.

2-we should explore the possibility of **federal tax subsidies for adult day care/home care insurance**. The federal government will probably never have the money to pay for adult day care for everyone who could benefit from it (yes, adult day care might reduce nursing home expenses, but it's probably not self-financing). Nor is every American going to be motivated to buy nursing home insurance because 1-it's expensive 2-most people will never spend that much time in a nursing home 3-Medicaid covers nursing homes and it's not hard for the non-rich to "spend down" in order to qualify 4-people don't want to think about going into a nursing home. But the insurance industry has begun to sell more-sensible policies which are less expensive and perhaps more attractive to ordinary people. These policies provide a fixed pool of money--say \$100,000--that can be used however a person wants: to hire a home health/life care nurse to come in every morning, or for adult day care, or for nursing home care. One can conceive of Washington providing favored tax treatment to encourage workers in their peak earnings years to purchase (via employers) these new flexible policies. Over the long term, it's probably the most cost effective way for the government to help people in their old age (though in the short term we need to do more for older people who never had the chance to buy these policies).

7-Lowering auto insurance rates with “voluntary no-fault”: One of the things that most inflates car insurance rates is that drivers can sue for, or be sued for, not just economic losses (car repairs, medical bills, lost work) but also the nebulous category of “pain and suffering”. What if individual consumers were given a choice: pay current high rates and retain your right to sue for pain and suffering damages should you be injured; or pay hundreds of dollars less a year in premiums but give up the right to sue for pain and suffering (**and** be immunized from being sued by others for pain and suffering **and** receive quick reimbursement from their own insurance companies for economic losses)? A bill called the Auto Choice Reform Act would offer consumers precisely this option. It would be, in effect, the biggest tax cut of the decade, says Sen. Daniel Patrick Moynihan--who cosponsored the bill along with Senators Lieberman and McConnell. Of course, the bill is opposed by the trial lawyers and most Democrats. But it has the support of Lott and Armey as well as a handful of moderate Dems. And it would be a great consumer issue for the POTUS.

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NATIONAL ENDOWMENT FOR THE ARTS

file NEA
The Nancy Hanks Center
1100 Pennsylvania Avenue NW
Washington DC 20506-0001
202/682-5400

JUN 24 1997

Office of the Chairman

Dear Representative:

In recent days you may have received a videotape produced and distributed by the American Family Association (AFA) which contains film scenes that the AFA says were supported by the National Endowment for the Arts during my administration of the agency.

The video apparently contains scenes from five specifically named films. I want you to know that the NEA did not in any way pay for the production of three of the films entitled Access Denied, Coconut/Cane & Cutlass and Bloodsisters. The fourth film entitled Nitrate Kisses was supported by means of an NEA production grant to an individual filmmaker during the previous administration before I became Chairman.

NEA did support production during my chairmanship of the fifth film, The Watermelon Woman, by means of a grant to Woman Make Movies/Cheryl Dunye in 1995. For your information, The Watermelon Woman has been reviewed very favorably, and is showing to audiences in theaters and film festivals throughout the country.

You should know that the NEA has not made any grants to individual filmmakers since 1996, because grants to most individual artists were abolished by Congress that year. We also have not supported the general distribution of films since 1996, because those grants fall into the category of general seasonal operating support, which Congress also abolished in 1996.

The AFA also criticized the agency for supporting Fiction Collective 2 (FC-2), a small publisher at the University of Illinois, which has introduced some of our newest minority writers of quality to the American public. Over the years, FC-2 has sustained a commitment to intellectual challenge, and some of America's greatest writers have supported it.

As you may know, the AFA has a long record of distributing purposefully inaccurate information about the NEA. The fact remains that this agency has made more than 112,000 grants over the course of its thirty-two year history, and fewer than forty of them have caused some people some problems. That's a record of excellence that any private business or government agency would envy.

I hope you find this information helpful, and hope that I can count on your support.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jane Alexander".

Jane Alexander
Chairman

AMERICAN FAMILY ASSOCIATION



Washington, D.C. Office

Dear Member of Congress:

The enclosed videotape contains clips of hard-core pornography produced and/or distributed with money from the National Endowment for the Arts during the the tenure of Chairwoman Jane Alexander. Before you vote on continued funding for the NEA I hope that you will view this videotape, though I regret having to ask you to do so. Some in Congress are spreading the myth that under Chairwoman Alexander the NEA has been cleaned up. That is not true, as you will see from this tape.

Under Chairwoman Alexander the NEA has also funded a group called FC2 with substantial contributions. Two of its NEA-funded written publications, *S&M*, by Jeffrey DeShell and *Mexico Trilogy* by D.N. Stuefloten, include very graphic descriptions of a wide variety of sexual acts. Other publications by FC2 include descriptions of child sexual acts, sodomy, incest and bodily mutilation. Yet FC2 is looked on favorably by the NEA and given tax dollars.

As you know, Congress passed legislation prohibiting the NEA from supporting hard-core pornography. Although that legislation was struck down in court, nothing has prohibited Chairwoman Alexander from voluntarily complying with the law. Yet, under Chairwoman Alexander, the NEA has continued to fund pornography year after year. If NEA receives more tax dollars then more pornography will be funded.

If you vote to continue support for the National Endowment for the Arts, you are voting to continue to offend the American public. Your vote will say you approve of tax dollars being spent on material just like that on the enclosed video.

Most sincerely,

Patrick A. Trucman

Director of Governmental Affairs

227 Massachusetts Avenue, N.E., Suite 100-A • Washington, D.C. 20002

(202) 544-0061 • (202) 544-0504 Fax

ARTS

Before she came to Washington, four-time Oscar nominee Jane Alexander received rave reviews for her performances on stage and screen. But as she writes in an upcoming memoir, no role prepared her for the political warfare she faced as chairman of the NEA

LESSONS

"YOU GONNA FUND PORNOGRAPHY?" the senator barked at me across the vast expanse of government desk, made all the more intimidating by his diminutive size, or perhaps I was the one who was shrinking in my chair. Strom Thurmond had been South Carolina's senator for 40 years. Over and over again he had been returned to office. He had a reputation for getting things done for his constituents, whether it was a tobacco issue or defense or a local favor. Call Strom—he'll take care of it.

As I sat before this taut, leathery gnome of a man with hair of a color not found in nature, I couldn't help but admire his fortitude. At 90 he was still donning jogging shorts and doing a daily turn around Capitol Hill. He was a survivor, and now he was going for the gold. He was determined to be the oldest sitting senator in the history of that august body. The Guinness Book of World Records was waiting.

"You gonna fund pornography?" His question to me was flung out like a glove slapping the ground. I rose weakly to the challenge and responded that the National Endowment for the Arts did not fund obscenity, that obscenity was considered unprotected speech. He said he didn't care what the endowment did, he wanted to know what I thought.

I said, somewhat grandly, that I was an artist, that as an artist nothing human was alien to me. It was an idea I had paraphrased from the **Looking back, Jane Alexander says that criticism of her NEA role was easier to take than criticism of her acting. "Art hurts," she writes. "Politics pricks."**

PHOTOGRAPHS BY GREG MILLER

Roman playwright Terence. As I said it, images of the fall of the Roman Empire arose in my mind.

"Aren't you a moral woman?" Thurmond shot back.

Well, that was a question no one had ever asked me. It took me by surprise, and I had to think a minute. All the roles I ever played flashed before my eyes: mothers, daughters, lovers, wives; murderers, lawyers, judges and drunks; lesbians, nurses, saints and sinners. I had to love them when I played them; I had to love something about every character, and moral judgment never came into it. As for my own life, had I been guilty about things? Sure. Had there been regrets? Of course. But overall I didn't think in absolutes.

I replied, "Yes, I'm a moral woman." And then I began to descend the slippery slope. I felt compelled to defend the artist in me and all the artists who had ever existed, knowing full well that controversy and political expediency had been entwined from time immemorial to the present day. Hadn't the authorities in the 1500s asked Michelangelo to put a fig leaf on the private parts of his statue of David? And as I have been writing this, didn't New York Mayor

even been confirmed as NEA chairman yet. Things would only get worse as it became clear that the arts and the endowment in particular were flash points for many of the issues troubling society in the late 20th century. My journey through the minefield of the next four years would change my thinking considerably about politics, the arts and the government's role. My visit to Strom Thurmond was only the opening salvo in the ensuing war for the NEA.

THE NEA HAD BEEN under fire since 1989 because of the work of a handful of artists, most notably the photographers Robert Mapplethorpe and Andres Serrano and the performance artist Karen Finley. Special-interest groups like the American Family Association and the Christian Action Network were stirring the coals again, bringing new alleged outrages to the attention of Congress in a renewed effort to eliminate the agency.

The NEA had almost been lost completely in 1989 and 1990, the argument for it submerged in the rhetoric of extremists. That was when New York Sen. Alfonse D'Amato tore up a copy of Andres Serrano's photograph "Piss Christ" on the Senate floor and Jesse Helms claimed that Serrano wasn't even an artist. They called for the elimination of the agency. A compromise, which saved the day, had been hammered out behind closed doors by Edward M. Kennedy and Claiborne Pell, on the Democrats' side, and Orrin Hatch and Nancy Kassebaum for the Republicans. This was when the "decency clause" became a part of the NEA's reauthorizing statute. It seemed harmless enough to these good senators to tell the NEA to take into consideration "general standards of decency and respect for the diverse beliefs and values of the American public,"

In Washington: As NEA chairman, Alexander faced repeated challenges from Sen. Jesse Helms, middle right. Bottom right, she confers with actor Alec Baldwin at a 1997 congressional hearing. Left, "Vanity, New Mexico," a print by Joel-Peter Witkin; some of his other work embroiled the NEA in controversy.

and also to state, "Obscenity is without artistic merit, is not protected speech and shall not be funded."

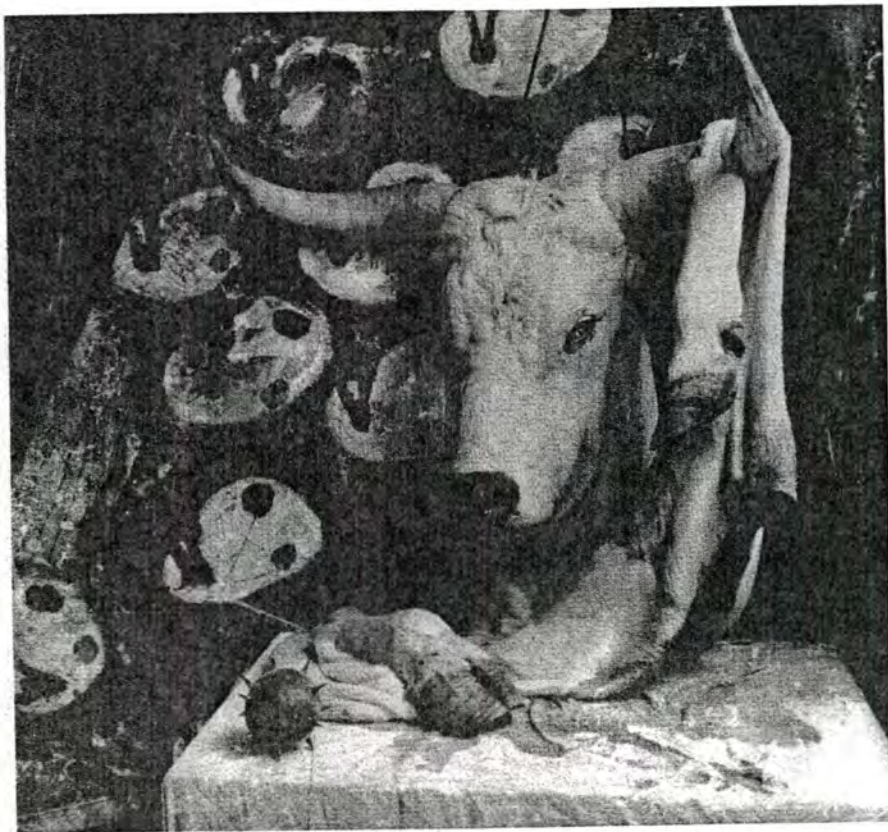
The National Endowment for the Arts had been a target of the Moral Majority and then the Christian Coalition well before Bill Clinton took office, but the combination of this president and a controversial agency was enough to incite Republican congressional leaders to seek the destruction of both. It was important for me to tread lightly and attempt to appease our detractors.

My predecessor, John Frohnmayer, had lived with the havoc wreaked, not fully grasping the pitfalls inherent in a simple concept like "general standards of decency." Frohnmayer was a lawyer and a good man. He was caught

in an impossible bind, trying to please a conservative administration and members of Congress who had approved him, and at the same time serve artists, for whom freedom of expression is the bedrock of creativity and of our First Amendment rights. When George Bush reluctantly got rid of John, the president compromised his own belief in the value of the arts endowment for the sake of political expediency. What happened to John Frohnmayer set the stage for me.

Frohnmayer had not only been attacked from the right. In 1990 four artists, including Karen Finley, had accused him of rejecting their grants on the basis of content after they had been recommended by the National Council on the Arts, our advisory panel. The NEA Four had recently come to an out-of-court settlement in which they had been awarded \$252,000.

When I arrived in Washington, the latest controversies involved a gay and lesbian film festival; an exhibition called "Abject Art" at New York's Whitney Museum; some photographs by Joel-Peter Witkin; and the distribution of \$10 bills to undocumented workers crossing



Rudolph Giuliani threaten to close the Brooklyn Museum of Art because of a painting he thought was sacrilegious? I forged ahead anyway.

"First Amendment rights protect free speech," I said.

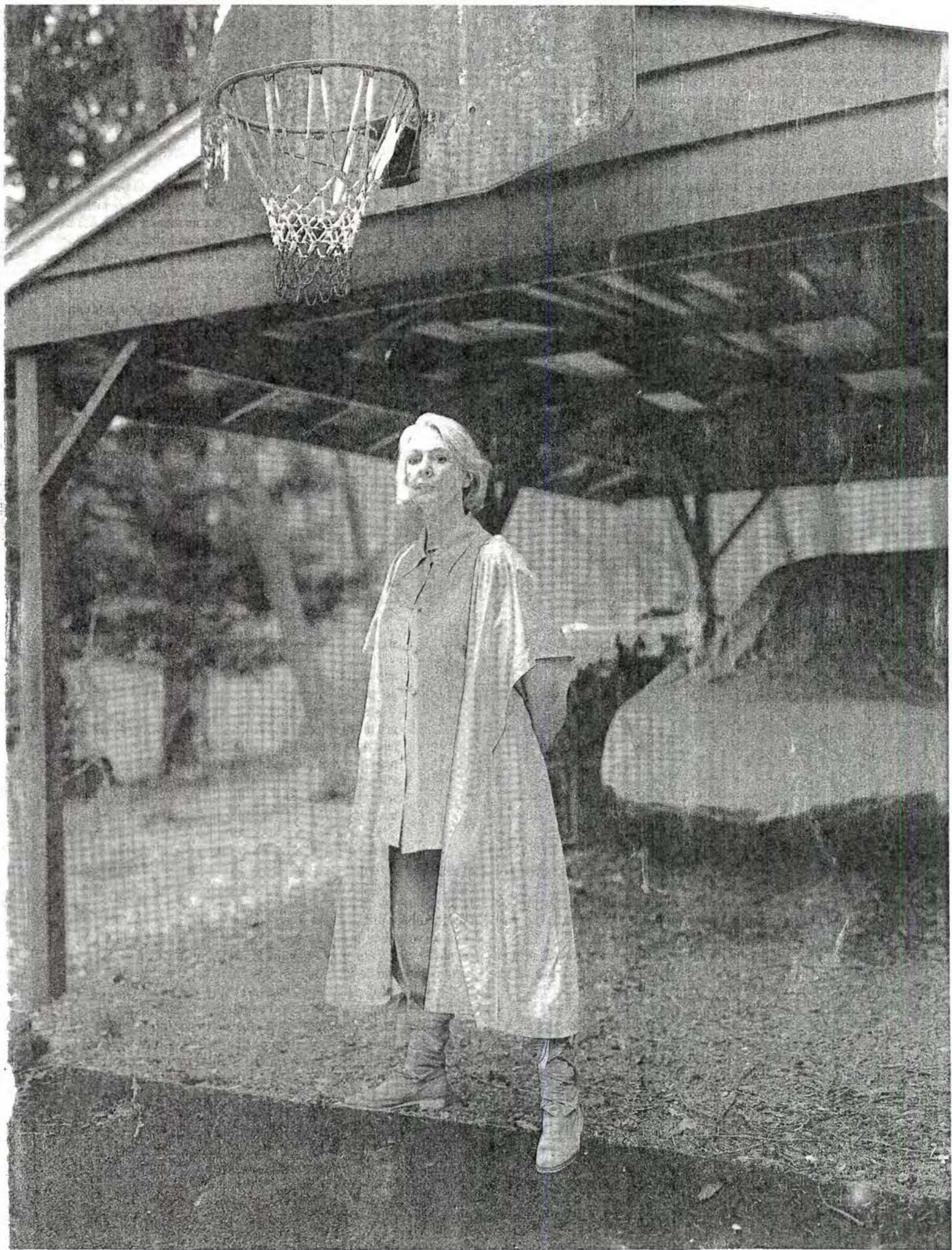
This elicited instantaneous disgust. The senator was almost apoplectic. "Ach," he spat out, "First Amendment rights are an excuse for people to do things they shouldn't be doing!"

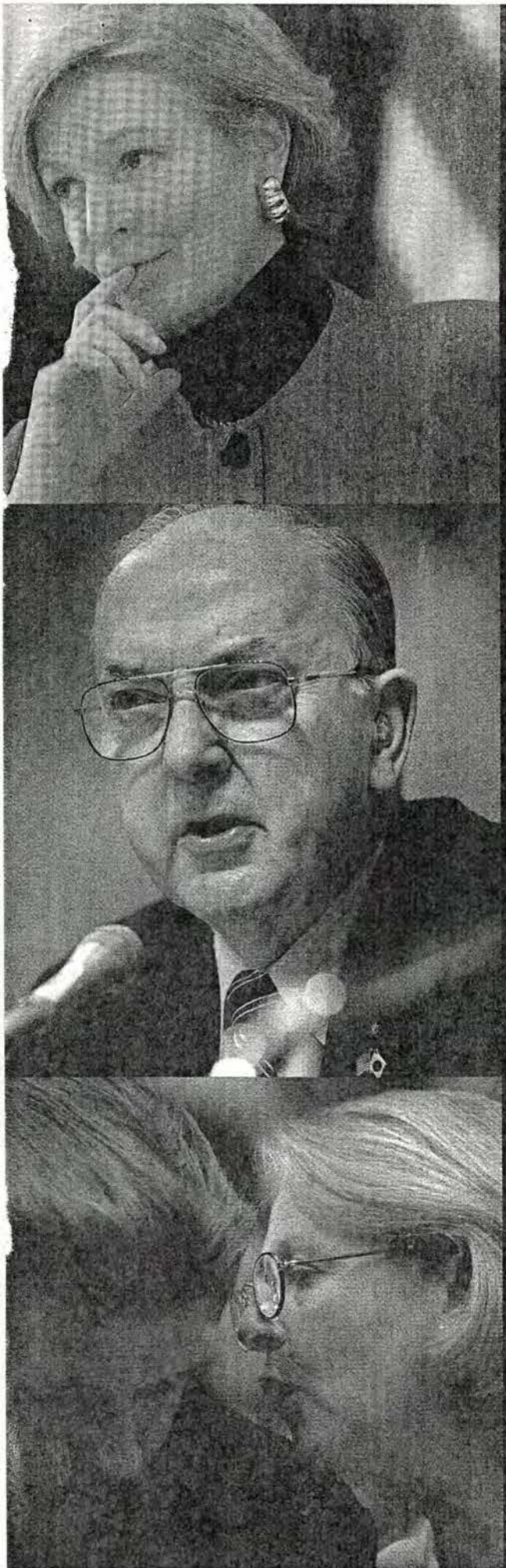
Whoops. There goes 200 years of jurisprudence, I thought.

I made one last try to rescue this disastrous interview.

"The endowment doesn't fund pornography," I repeated. And not wishing to alienate this venerable institution of the South any further, I beat a hasty retreat out of his office and down the marble halls of Congress.

I was shaken, and scared out of my wits. Was this what a senator of the United States actually believed? What had happened to the Constitution? I knew the answer in my heart; I knew its precepts had to be defended over and over again with each generation, but this was a tough first visit to the Hill. It was the spring of 1993 and I hadn't





the Mexican border as part of a project of the Museum of Contemporary Art in San Diego.

It was fortunate that I had seen none of the works in question and could respond noncommittally when asked about them. The talking points in my briefing book suggested that I say: I am not thoroughly knowledgeable about the actions taken by the former administration, nor am I thoroughly knowledgeable about current controversies.

A visit to the junior senator from Kansas, Nancy Kassebaum, reinforced my perception of congressional thinking. She told me point-blank that I could not defend controversial art and to not even bother to try. Kassebaum was the ranking minority member on the Committee for Labor and Human Resources. She was bright, fair-minded and straightforward. She always told me exactly what she thought, and always did exactly what she said she was going to do. I appreciated this enormously.

When I met Orrin Hatch, I was stunned that I was actually sitting down with him. My husband and friends and I had been riveted during the hearings for Clarence Thomas's appointment to the Supreme Court. I had been disgusted at the way Hatch, as a ranking minority member on the Judiciary Committee, had treated the witness Anita Hill. But then, as a woman, I was disgusted by the behavior of most of the men questioning her. Yet here I was, in the lair of the beast, and he wasn't so beastly at all.

Helms lifted
his hands above
his head and
slowly stroked
imaginary horns:
'You can come
to my office
and feel my
horns anytime.'

Hatch was the only member of Congress I met who talked about the sacrifice it had to be for me to give up my acting career to take on the NEA. I didn't look at it that way, but it was nice of him to say so. He spoke of decency but did not ask me what my definition was or what I might or might not fund. He talked of his relationship with Ted Kennedy and of how they worked closely together to get things done. And he told me the story of his boyhood in Pittsburgh, where his mother struggled in order to give him piano lessons and where he saved his pennies to take the streetcar, then walked two miles to sit in the peanut gallery to hear the symphony. It was clear that the arts meant a great deal to him personally.

There were other senators who made indelible impressions on me at this time. Alan Simpson, Republican from Wyoming, was a tall, skinny cowboy with a broad smile and expansive manner. He led me up a few steps into his cluttered cubbyhole of an office and sat me down on a leather sofa. I liked Al and trusted him from the very beginning of our relationship. He gave me the best advice of anyone at all: "Follow your gut, and don't take any crap from anyone."

Jesse Helms, one should never forget, is from the South; he has the manners of a courtly Southern gentleman. He looks like the grandfather that he is, but with eyes as sharp as black buttons on a teddy bear. Simpson introduced us, and there was a slight pause before Helms lifted his hands above his head and slowly stroked imaginary horns.

"You can come to my office and feel my horns anytime," were his first words to me. All I could do was laugh. We got back to basics when he asked me to take his objections seriously. I assured him that I did, that I had been in front of audiences all my life and that I listened carefully. I took them seriously, but I couldn't imagine that Helms would ever believe that I could think as he did. He left us, and Al Simpson naively suggested that all Jesse needed was a little attention paid to him. I doubted that very much.

THE WORLD OF Washington is insular and self-perpetuating, like a dog running in circles with its own tail in its mouth. Bad press begets new policy begets bad reaction begets bad press. The press is the barometer for "How're we doing?" When the answer was less than positive, the White House or congressional staff would pull together a focus group to gauge public reaction to whatever event, issue or policy was at stake. The White House became increasingly dependent on poll results and then would direct its efforts accordingly.

A focus group was pulled together for the NEA, paid for by a private organization. Although I didn't initiate it, I was interested in what this tiny sampling of the public had to say about our agency. I was stunned to learn that fully 90 percent of those questioned had never heard of the NEA. So I disregarded subsequent answers and in my travels set about increasing awareness of what this fine agency does.

Although my official title was the Honorable Jane Alexander, chairman of the National Endowment for the Arts, I was virtually never called "chairman" (and thank God never "honorable"). After the initial hellos I was immediately called "Jane" by most people. I observed that occasionally when my counterpart at the National Endowment for the Humanities, Sheldon Hackney, and I were at the same event he would be referred to as "Chairman Hackney" while I was called "Jane" or "Ms. Alexander." Maybe "Jane" is easier to say than "Sheldon," but conscious or unconscious, there was a sexist overtone to it.

It took me a very long time to realize that the NEA and I had been



relegated to the office of the first lady. I was well taken care of by Melanne Verveer, who advised the president on the arts and was intimately involved with the first lady in the arena of policy. (In 1997 she became the first lady's chief of staff.) Hillary Rodham Clinton really cared about the arts. She felt that the arts were as important to a good education and life skills as the study of history or mathematics. She may not have focused on it, as she did on health care in the beginning, but she increasingly spoke out for the NEA as the years went by and the pressure on the agency mounted.

My relationship with President Clinton was mystifying. Although I never felt abandoned by the White House, I often felt neglected by the president's men. The endowment received a disproportionate amount of attention from Congress and the press relative to its size. I thought the president would have more to say to me about the agency.

My letters or calls to the White House and the president went unanswered. The words of Roger Stevens, founding chairman of the Kennedy Center, rang in my ear: "Always talk to the president." I couldn't even get on his schedule; his scheduler often never got back to me or to my chief of staff, Sandy Crary. Sometimes I thought that if I were simply Jane Alexander, citizen, I would have been able to get to him more easily. I did see him at social events, but we were only able to exchange a few sentences.



MY FIRST REAL CRISIS with Capitol Hill erupted in the summer of 1994—while I was on vacation out West. The Appropriations Committee chairman, Sen. Robert C. Byrd, had sent a bill out of his committee that cut the NEA's overall budget by 5 percent, specifically targeting the theater, visual arts and presenting and commissioning programs. This was a serious blow, all the more so since it came from a leading Democrat.

Dick Woodruff, the NEA's congressional liaison, thought we had some time, at least until the Fourth of July recess was over. He suggested that I marshal my forces by contacting other leading senators immediately before they left town. For the next three days, as my husband, Ed Sherin, and I and our friends made our way from Missoula, Mont., to Glacier National Park, I made calls from gas stations, local parks and restaurant restrooms to Sens. Kennedy, Simpson, Kassebaum, Hatch, David Boren, Dave Durenberger, Daniel Inouye and Howard Metzenbaum. Of course I called Byrd, too, for about the fifth time in a month. Byrd played a game of cold shoulder if he didn't like what you were doing. He simply was always "out" when you called and never got back to you. Still, his staff set a meeting for July 12, when Congress reconvened.

Byrd was particularly disgusted by a grant from Minneapolis's Walker Art Center to the performance artist Ron Athey. Athey, who was an HIV-positive gay man, drew designs with a scalpel on the back of a fellow performer (who was not HIV-positive), breaking the surface of the skin and causing superficial bleeding. He then blotted the designs on paper towels and strung the towels with clothespins on a line and pulled the line partially out over the audience eight feet above their heads. My hunch was that the rampant homophobia among conser-

On stage and screen: From far left, Alexander with James Earl Jones in Arena Stage's 1967 world premiere of "The Great White Hope"; in the 1980 made-for-TV movie "Playing for Time," for which she won an Emmy; in the 1966 Arena production of "Oh! What a Lovely War." Right, at home in Putnam County, N.Y.

vatives was fueling the outrage over Athey. Byrd and Sen. Don Nickles of Oklahoma, the ranking minority member of the Appropriations Interior subcommittee, had written me on June 17 expressing their concern about the Athey "bloodletting" performance at the center. I had answered them immediately and included the facts about the center and the performance. I told them that I supported the center in its distribution of our \$104,500 grant to help finance a season of more than 100 performing arts events. I had also sent a letter to every member of Congress explaining the facts.

Byrd and Helms were talking, I knew, but what I was beginning to understand when I spoke with Boren was just how involved his Oklahoma colleague Nickles was in the 5 percent cut to the NEA budget. Nickles and I had already had a falling out in his office six weeks earlier. He was a handsome, engaging young senator, shiny as a river stone and about as hard. He told me in the presence of some Oklahoma arts advocates that his problem with the NEA was that we had just given grants again to Holly Hughes and Tim Miller, two of the infamous NEA Four, and now to Ron Athey. It didn't seem to matter to him that a peer panel had ranked Hughes and Miller highly or that Athey's grant was not a direct grant to him but to a museum.

Nickles seemed homophobic. He stood in his white shirtsleeves that warm May afternoon, circled the center of the room playing to his small audience, and just when I thought he would end his diatribe by blurting out "those homosexuals," he stopped himself short, leaned over and grabbed his jacket, as if to make a swift exit. I said I saw no reason to turn down their grants and have the tax-

payers of America back in court again at a cost of \$250,000 or more.

The White House was getting nervous. The top brass closest to the president felt that I should not be defending the Walker Art Center. Even Melanne Verveer suggested that maybe I should find *something* to disavow. I stubbornly refused. No. Period. We had done nothing wrong, nor had the Walker, which fulfilled the needs of its community at large. If I had been at the political game a bit longer, perhaps I would have understood that putting the agency in jeopardy was putting my boss, the president, in jeopardy, but I didn't catch on. There was no one I held in higher regard than Melanne, and I certainly listened carefully to her advice, but I thought we could win this one on legal and perhaps moral grounds.

Jesse Helms, as usual, had been distressed about a number of grants, but particularly Athey's presentation, which had the added



fillip of bodily mutilation to arouse his indignation. The senator and I had visited together in his office earlier in the year, and we had corresponded a number of times. I was careful never to criticize him publicly, and our dealings were always cordial.

In the dog days of summer, before the long-anticipated congressional recess in August, we knew that Helms would again propose amendments against the agency, but we didn't know exactly what they were. In midafternoon on July 25 Helms asked for an amendment prohibiting funds for any art that involved mutilation, invasive bodily procedures and bloodletting. The Democratic leadership told Sen. Christopher Dodd and other NEA supporters that the amendment was okay and to let it go; either it would be defeated, as usually happened with Helms's amendments, or, if it passed, it was unlikely to pose any hardship for the art that the NEA *continued on page 21*

normally funded. Dodd thought otherwise. He said, hold on a minute: This amendment would preclude all art involving Saint Sebastian, the head of John the Baptist and the Crucifixion—in other words, much of the Christian art of the world. In addition, he said, it precluded the funding of paintings depicting military battles, many of which ringed the walls of the Capitol's corridors. Helms defended his position, showing pictures of a pierced Ron Athey, but to no avail. The vote to table his amendment was 49 to 42.

It was a shock when Al Simpson voted against tabling Helms's amendment, after all his support of the agency and me. I couldn't believe it until Dick Woodruff pointed out that it was a purely political move on Simpson's part: He knew that the amendment would be defeated and that he could buy points with Helms by throwing his vote his way—a "free vote," it was called. It was a common strategy in Congress, and a kind of vote politicking I was beginning to understand, but it still hurt when a friend said one thing and then voted another way. Simpson redeemed himself a few minutes later during a discussion of mining in the Interior bill. The endowment had nothing to do with mining, but he brought the agency up anyway and spoke of it in glowing terms. It was my first Senate victory for the NEA, and I was thrilled.

A NEW BREED of Republican was elected to Congress in November 1994. They weren't the Rockefeller Republicans of my youth, who had been prompted by their guiding principle of noblesse oblige to found and patronize great institutions of culture and learning and always to give a hand up to anyone who needed it. No, this new breed had the notion that if everything were stripped down to nothing, the nation could rebuild itself as a pure and noble society free of violence and abiding by prayer. The religious right had triumphed, and in return for helping to elect the new Congress, it had extracted certain platform promises. One was to rid the country of the NEA.

The mind of Newt Gingrich, the newly elected speaker of the House, was far more facile and complex than those of his followers. He was sincerely interested in reducing the size of the federal government, an agenda that included the elimination or reduction of the cultural agencies. Gingrich was not primarily concerned about suspect grants, although he used such controversies to his advantage whenever he could.

The Republican takeover had resulted in major changes for the NEA's friends in the House and Senate. Ted Kennedy was succeeded by Nancy Kassebaum as chairman of the Labor and Human Resources Committee. Just as Robert Byrd had held all the

cards as chairman of the Senate Appropriations Committee when the Democrats were in power, now Jesse Helms, chairman of the Senate Foreign Relations Committee, and the Republican leadership—including Strom Thurmond (Armed Services) and Orrin Hatch (Judiciary)—were in full control.

The endowment was cited regularly in the newsletters of the Christian Action Network, the American Family Association, the Family Research Council, the Liberty Alliance, the Eagle Forum and Pat Buchanan's campaigns, among others. Several of us on the senior staff asked our spouses to contribute a few dollars to the organizations so we could keep abreast of their attacks. The newsletters and fundraising pleas reached millions and millions of homes across the United States on a regular basis. Often they were cited in Sunday worship services by church leaders and preachers, who would thus reinforce the distortion or lies about the endowment inherent in such appeals.

The newsletters would always catalogue the egregious grants given, hyperbole taking precedence over fact, as in this May 1994 fundraising appeal from the Christian Action Network:

"This is 'ART'? DRIPPING BLOOD ON THE AUDIENCE?... My friend, I don't know about you—but this makes me SICK!... THE ARTIST WAS INFECTED WITH HIV!... But Bill and Hillary don't care—because they appointed their good friend, actress Jane Alexander, as Chairman of the NEA and she told them she wants: !! AN NEA BUDGET OF \$50 BILLION TAX DOLLARS!!..."

Rep. William Goodling of Pennsylvania was now chairman of the House Economic and Educational Opportunities Committee. He was a bland fellow who said that he was for us but that the budget had to be cut, so it would be a fight to keep us in existence. Bob Livingston, from Louisiana, was now the chairman of the House Appropriations Committee. He seemed like a nice enough guy but was slightly patronizing. His remark "You're certainly an excellent advocate for the agency" reminded me of Orrin Hatch's first comment to me: "You're sincere, you're a lovely person, people on the Hill will respond to you." Maybe I was too sensitive, but would they say such things to a man, I wondered? I just wanted the truth, and no one was coming out with it directly.

I didn't bother to try to schedule a meeting with the new House majority leader, Dick Armey of Texas. He had been against the NEA for so long it would have been fruitless.

Our visits to the Hill were focused mainly on the House of Representatives, but there were a few senators I needed to meet. A new senator from Tennessee was a smart lawyer-turned-actor named Fred Thompson. The last film I had done, which aired in 1992, was a miniseries for television called "Stay the

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Night," a psychological thriller based on the true story of a Georgia woman who finally nails the killer, who was played by Barbara Hershey. Fred had done a large supporting role in "Stay the Night." I remember thinking happily that he was going to be a piece of cake. Of course he was going to support the endowment; he knew what the arts were all about firsthand. I was wrong. Fred had made it into the realm of movie actors without a struggle. His own story of representing a woman named Marie when he was a lawyer had been made into a movie with Sissy Spacek. Fred played himself in the film, which marked the beginning of his career as an actor. Now he was finding stardom in the Senate, and although he was always cordial to me, he barely had the time to give me five minutes.

Rep. Ralph Regula, chairman of the House subcommittee with responsibility for the NEA, held preliminary hearings on the NEA and NEH. His main witnesses were William Bennett and Lynne Cheney, two conservatives who had previously chaired the humanities endowment and now called for the NEH's elimination, and Charlton Heston and former NEA chairman Frank Hodson, who both said the NEA could do a better job. Frank intimated that under his chairmanship the NEA did do a better job. He neglected to tell everyone that the grants

that had gotten the endowment in trouble back in 1989 and 1990 had all been awarded on his watch.

THE IMPORTANT THING was to be talked about, and so I welcomed all the attention the NEA was getting. It gave us the opportunity to educate the public, and for the public to react in letters to the editors. With headlines like "Save the Rembrandts, Dump 'Piss Christ'" (Washington Times), "NEA Uses Taxes to Promote Filth Disguised as Art" (New Haven Register), "America's Art and Soul" (Boston Globe), and "Arts and the Coming Storm" (Los Angeles Times), we were pretty sure the public was reading. Television was now starting to focus on us, too. We were no longer just a sound bite about some controversial piece of art, but a national issue. I had a few minutes on the "Today" show, and the PBS "NewsHour" regularly updated the public on our struggle.

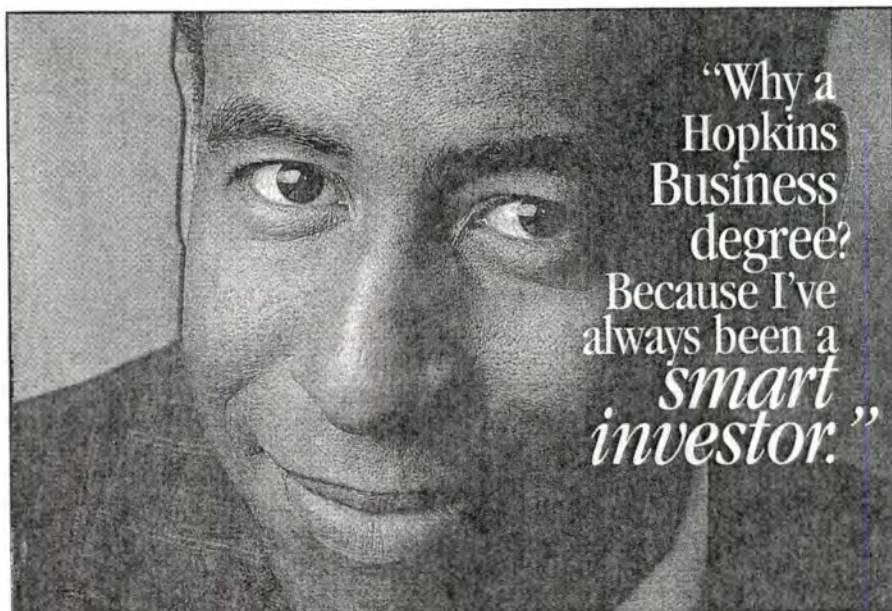
By the middle of January 1995 I was ready for the reauthorization hearing by the Senate Labor and Human Resources Committee. The NEA was a litmus test for GOP action. The room was packed; cameras ringed the floor in front of me. Ted Kennedy was there despite the death of his mother, Rose, days earlier.

"Today the question before you is whether the agency should continue to ex-

ist," I began. "To twist Marc Antony's words, I come not to bury the endowment but to praise it." I held up an envelope with two first-class class stamps on it. "I do not believe that the taxpayers I met in towns and cities, large and small, begrudge the 64 cents apiece each year that the endowment costs them. Sixty-four cents; the price of two postage stamps a year!" I had been taught that a sound bite or a photo op required a prop. Sure enough, the major photo in the papers the next day was of me holding up the envelope.

There were no hard questions at the hearing despite the presence of one of the agency's most vocal Republican foes, Sen. John Ashcroft of Missouri. All he said was that ridding the agency of objectionable grants was a "doable thing. It's achievable and ought to be achieved."

I was pleased with myself. I was resorting to tricks, beginning to play the game of politics, and actually liking it when I put one over. A year on the road had helped. I was at ease before the legislators and no longer intimidated by them. I had given 200 speeches to all kinds of groups, and although I was still unsteady without a script in hand, I was able to field questions without hesitation. And I knew how to deflect. I didn't answer Dan Coats of Indiana about Ron Athey at all; I just bumped the problem



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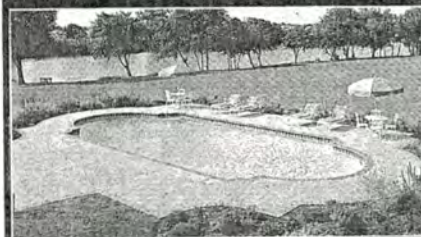
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to the previous Republican administration—in effect name-calling, a common mode of operation in Washington.

I WENT TO HOLLYWOOD in February 1995 for two reasons. The stars wanted to know how they could help the NEA in its battle with Gingrich and the 104th Congress, and I wanted the studio bosses to know how they could help the NEA and the nonprofit arts.

The relationship between Hollywood and Congress is schizophrenic and hypocritical. The 104th Congress regarded Hollywood stars as "elitist." And yet, when the opportunity presented itself, members of Congress all scrambled for a photo op with them. I was not in the Hollywood star category myself, having only limited wattage in the movies, but it amused me to watch the interplay between politicians and movie stars.

Liz Robbins, who was lobbying for an organization with the unwieldy name of the Council of Literary Magazines and Presses/Literary Network, held a reception and dinner one summer night in the garden of her quaint Georgetown home. She invited the playwright Wendy Wasserstein, the actress and director Joanne Woodward, Bill Clinton's favorite mystery writer, Walter Mosley, and the movie star Melanie Griffith. They were to pay calls on the Hill the next day and had graciously made the trip to

D.C. to support the endowment. I knew from watching Wendy as a grant recipient and as an NEA panel chairman that she would be a superb spokesman, and Joanne was quietly articulate, too. I did not know Walter or Melanie and decided to introduce myself and thank them for giving their time. Melanie was dressed in a white designer outfit with breezy décolletage.

My friend Al Simpson was there, chatting with another GOP senator, Hank Brown from Colorado. We spoke business for a few minutes, and then I asked whether they would like to meet Melanie Griffith, knowing full well they were salivating already. They hovered over her as they never hovered over a fellow politician, Al's 6-foot-7 vantage point being perfect for stargazing.

Wendy later reported to me about the meetings that transpired the following day. NEA Chairman Alexander couldn't get an appointment with Newt Gingrich, but celebrities came and went with relative ease, it seemed. He flirted with Melanie and told her there was a good part for her in the film of his new novel. Wendy managed to steer the conversation to the NEA, telling the speaker that the NEA fellowship she received had helped her write "The Heidi Chronicles," which won a Pulitzer Prize. Gingrich replied, "Arthur Murray never needed a grant to write a play." Wendy restrained herself from saying that

perhaps the famous ballroom dancer should have applied to the dance program. As they were leaving, Gingrich realized his mistake and said, "I'm terribly sorry, I meant Arthur Miller." Wendy replied, "Yes, and he did have a grant. It was called the WPA."

Musician Kenny G, in a meeting with a Republican congressman, said that his early career was made possible through NEA-sponsored organizations. When the congressman told him that he was going to vote the party line even though he personally believed in government arts support, Kenny looked at him with his big gentle eyes and said, "Well, that's not very courageous, is it?"

I loved to hear stories like that. They were my feelings exactly, but I couldn't be so candid.

Harry Belafonte came to the Hill, as did the great film director Alan Pakula. Billy Taylor, the remarkable jazz pianist, also came, as did the classical music giants Isaac Stern and Yo-Yo Ma, who testified forcefully on more than one occasion.

Charlton Heston, one of the few outspoken Republicans of the Hollywood community, paid me a visit, suggesting that I needed to be tougher about controversial grants but that I had his full support. More important, as he was making the rounds of the Hill for the National Rifle Association, of which he was a member, though not yet its president, he said he would speak up for the NEA. Strange bed-

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fellows! But he continued to be supportive of the agency throughout my tenure.

IN MARCH 1995 Melanne Vermeer finally secured an appointment for me with the president. I wanted to make him aware of the areas in which the Republicans were attacking us, to assure him of our internal direction and to enlist his overt support.

My early sense of puzzlement about Bill Clinton had been eased after I had spent a day in his home town of Hot Springs, Ark. The modest house where he, his little brother and his ebullient mother, Virginia, had lived was perched on the rise of a hill along a main street out of the town center. Below were the famous baths frequented by Mafiosi back in the 1950s and 1960s. I pictured young Bill riding his bike down the hill past the baths into the heart of the town.

Hot Springs, I conjectured, was one reason why my president never really took on the issue of the arts endowment in a public way. He had learned tangentially about painting, literature and theater, and he played the saxophone, bopping to the music with his band; but the arts were not his passion. Most of all, he loved people, and art was one step removed from direct contact. Still, although he did not give ringing speeches about the arts, I was grateful for the support he did give the agency. Even in the face of the "Contract With America," the president's budget had asked for an increase to the NEA, a nice vote of confidence. Money was, after all, the bottom line of politics, and there was no one who played the game better than William Jefferson Clinton.

We spoke for about 20 minutes in the Oval Office. The president was relaxed and even seemed buoyed by the challenges his opponents had presented to his administration. "I just want to beat the crap out of them," he said.

The first area of attack, I told the president, was federal support of the arts. All great nations subsidize the arts, I said, and the nonprofit arts in America couldn't make it on their own. A second area was the accusation that the NEA was "elitist."

"The third area of attack is controversial art," I said. I mentioned some of our internal procedures, such as interim reports, that allowed the agency and a recipient organization to designate where NEA funds were used in a grant that had been awarded for an entire season of work. The organization continued to present its full season, but the NEA money would be allocated to areas unlikely to cause problems. "That sounds good," the president replied. "They've got to understand the public won't pay for that."

My idealism swept over me suddenly. I wished for a president who would tell me that we had the moral high ground and that in a democracy we embraced the full spectrum of tastes, one that included all kinds of

art. And that if we went into battle we would stick together to the bitter end in the name of freedom of expression and the First Amendment. After all, the Democratic platform that the president endorsed prior to his election in 1992 was fully committed to the NEA and the NEH.

But my own idealistic beliefs had been bastardized in the past year. And the wave of idealism I felt sitting four feet from my president left me almost as quickly as it had come. The real world was the political game we were all playing. It was not the pure world of the theater, where I stepped out onstage every night and said the same lines and received the same response from my fellow actors, huddled in the safe cocoon of the playwright's world. It wasn't possible to be in politics and not compromise to within an inch of your life.

I had watched the president move to a centrist position, adopting much of the Republicans' agenda, but with a twist: He refashioned it and made it his own program, often beating them at their own game. I admired his political savvy immensely. He never gave up, and he always played to win. It was what kept him in the game. I knew he would never desert us because he didn't want to lose the fight, and the NEA was a big symbolic battle.

IT HAD BEEN a very rough couple of months. Dick Woodruff and I spent most of the spring and summer of 1995 up on the Hill cajoling, strategizing and schmoozing. The momentum to eliminate the NEA was overpowering. The danger of severe cuts to legions of other important government programs was so great that it was hard to get the attention of our friends in Congress. But the arts service groups and the lobbyists were in high gear: They had organized a massive letter-writing campaign across the country that was attempting to equal the religious right's negative mail. The Christian Action Network was demanding a "death certificate" for the NEA, calling me its "mother" and Lyndon Baines Johnson its "father." The network was going to have a "funeral" and drag a coffin up to the Hill filled with petitions for our elimination.

The House subcommittee under Ralph Regula had given us a 40 percent reduction in appropriations. The hearing itself was comical. The 104th Congress was trying to pass so much legislation in such a short amount of time that everyone was running in and out of the hearing room, including Chairman Regula, because they had other meetings to attend simultaneously.

The House waged its own internal war regarding our appropriations. There were about 30 moderate Republicans who supported the endowment. I spent many hours with Amo Houghton of Upstate New York, Marge Roukema of New Jersey, Mike Castle of Delaware and Mike Forbes and Rick Lazio of Long Island. It took courage for the moderates

to buck the leadership, especially on such an unpopular issue. But they also knew that their constituents would not be forgiving come the next election if they let the NEA down. The moderates were blocking their colleagues from eliminating the endowment altogether.

The House deliberations went late into the night, with Dick Arney, who wasn't even on the Appropriations Committee, demanding zero funding for the NEA. The moderates held the line. In the final backroom deal it was Newt who saved the day. He prevailed upon the Republican right to accept a stay of execution for the endowment of two years, with certain death in 1997. He reasoned that it would be unfair and difficult for arts organizations nationwide to be cut off cold turkey, and that two years would give them time to prepare. It was hard for me to believe that Gingrich had suddenly found compassion for arts administrators. I suspected instead that some high rollers in the area of Marietta, Ga., had placed a few phone calls to the speaker telling him to lay off.

Whatever happened to sway Newt at the midnight hour was reason to jump for joy. We had been given a reprieve of two more years—two more years to engage in intensive persuasion and climb into bed with strange fellows. The major blow we had sustained, however, was the elimination of individual fellowships, with the exception of literature and the honorary Jazz Masters and National Heritage fellowships. Writers had lobbied the Hill intensely to preserve the grants, and whatever it was that ultimately saved the literature fellowships was all to the good. Still, it was a sad day when the endowment no longer gave individual artist grants to choreographers, composers, performing artists, filmmakers and visual artists.

I didn't know how we could revive the fellowships in the future, but at least the agency was alive. It was on life support, but it could be resuscitated. I said a prayer of thanks for those rich old women in Georgia who loved their symphony and maybe had a museum wing named after them.

The final cuts to our budget, after reconciliation of the House and Senate budgets, were as massive as anticipated—amounting to 40 percent. Although the president had not signed off on the final budget for the nation for fiscal year 1996, the White House had told us that there was nothing more it could do for us because the Republican leadership would not negotiate on the NEA. My hardest day at the endowment came in the autumn of 1995 when I had to tell 89 staff members that they would be laid off. It didn't matter how good any of them were at their job, or how much I needed them; they were forced out by politics.

In any case the NEA could no longer give significant grants for seasonal support to all the worthy arts institutions nationwide. The endowment would have needed a budget of at least \$350 million per year, not the \$99 million that had been appropriated for fiscal

year 1996. The NEA could still help in specific circumstances, like the long-term planning and stabilization of an organization, but communities nationwide would now bear the burden of, and the commitment to, their own cultural institutions' maintenance and overall seasonal support.

The NEA's focus was now on the public and the communities they lived in, as well as on the artists. Our critics in Congress liked to accuse us of being "welfare for artists"; they couldn't so easily attack us if we were an "investment in communities."

IT MAY HAVE SEEMED that I was in a very long run of a bad play when I was in Washington. There were times that this actress wanted nothing more than to break the contract, but there were overriding compensations that made the entire run worthwhile. The opportunity to help people connect with art, and the ability to do so through the people's own agency, was reward in and of itself.

Criticism hurt, but as an actress it was not new to me. In fact a negative review of my acting work was much harder to take than the criticism I received in the press regarding the endowment. A character I created for the stage or on film was somehow the raw truth of me; a decision I came to as the chairman of the NEA involved mitigating circumstances. One was art, and the other was politics. Art hurts; politics pricks.

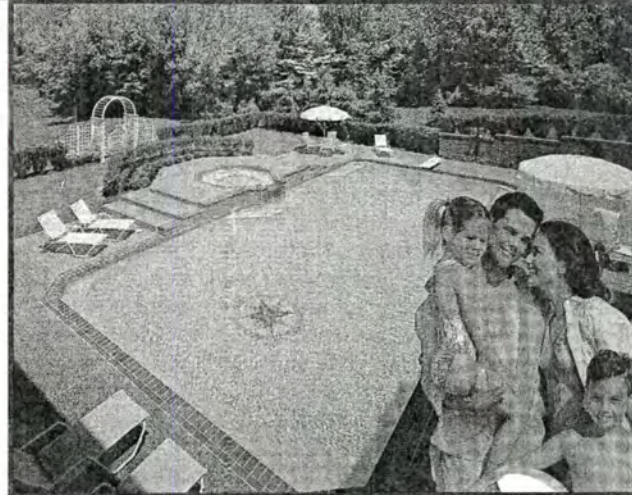
After four years I knew the time had come for me to leave. I packed up my bags, my papers, and placed calls of thanks to those who had become my comrades in arms. I finally announced my departure to the staff, a day before it appeared in the newspapers. They gave me a rollicking good party, a dozen or more of the women on staff dancing the can-can while the movie in which I played Calamity Jane ran on a huge screen above. I like to think they believed I *overcame* calamity, and did not *cause* it. Best of all, they knew of my love for the outdoors, and they gave me a gift of fly-fishing lessons and a cap that said: "Gone fishin'."

My husband, Ed, and I boxed up the things in the apartment and began the drive home to New York. The government had paid for me to move my belongings to Washington but refused to pay for me to take them home. I guess Washington wanted me to stay. But there were miles to go, and things to do, in the world. It was a far bigger and more imaginative world than the narrow vise of politics would have you believe. As Hamlet says, "There are more things in heaven and earth, Horatio, than are dreamt of in your philosophy." ■

Jane Alexander most recently starred in "The Cherry Orchard" at the McCarter Theatre in Princeton, N.J. She will be fielding questions and comments about this article on Monday at 11 a.m. at www.washingtonpost.com/liveonline.

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Ivey New NEA Director

Clinton's choice
confirmed unanimously

By Kenneth Baker
CHRONICLE STAFF WRITER

President Clinton got his wish. On Thursday evening the Senate unanimously confirmed William R. Ivey, his nominee for director of the troubled National Endowment for the Arts. He is the seventh director in the agency's 33-year history.

Like nearly everyone else, Ivey, 54, was surprised to find himself confirmed without public hearings. Reached by phone, he credited extensive private interviews with members of Congress, which were "long, fruitful and very positive."

Above all, Ivey was surprised that "there seems to be a wave of bipartisan support for moving the agency forward," he said. "The senators would like to see the agency's work more equitably distributed throughout the country, but I think they're also open to a kind of new beginning, a new vision for the role of government in America's creative life."

"I wouldn't be so naive as to say there won't be some attacks on the agency and on specific grants," Ivey added, mindful of how his predecessor, Jane Alexander, was roughed up by right-wing legislators.

"But if you look back a year, there was a pretty concerted effort to get rid of the NEA," he recalled. "It revealed that there was broad support for the NEA among the American people. I think the agency became stronger in having to defend itself. Its supporters became clearer in their purpose, and the bipartisan support was galvanized. We have the opportunity to build on the last couple of years' dialogue to create a bright future for the endowment."

Among Ivey's priorities are the preservation of all forms of American cultural heritage and new alliances between for-profit and not-for-profit arts organizations.

He would also like to see grants to individual artists — the NEA's most controversial program — restored to their former level or above.

"It's not something that can happen overnight," Ivey said, lowering his voice as if confiding a secret. "But the work of the individual artist is the cornerstone of Ameri-



William Ivey
New NEA head

Ivey Confirmed

► IVEY

From Page C1

can creativity."

Ivey shrugged off the suggestion that the scandal-hungry focus on the president might have taken some pressure off his own confirmation.

What amazed him was "the way the business of government goes on in a professional manner regardless of what issues may be capturing the imagination of the public."

Ivey goes to Washington from Nashville, where he has been director of the Country Music Foundation since 1971. He has served on the NEA's grant-making panels intermittently since 1975.

Born in Detroit and raised in northern Michigan, he has degrees in history, folklore and ethnomusicology from the University of Michigan and University of Indiana.

He has taught music at Vanderbilt University and been a music research fellow at Brooklyn College.

Ivey was also principal writer for the 31st Annual Country Music Awards and has written and produced TV specials.



NATIONAL ENDOWMENT FOR THE ARTS

The Nancy Hanks Center
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file news

**WILLIAM J. IVEY, CHAIRMAN
NATIONAL ENDOWMENT FOR THE ARTS**

William J. Ivey, nominated by President William Clinton, has been unanimously confirmed by the United States Senate as the seventh Chairman of the National Endowment for the Arts.

Bill Ivey is an experienced leader with a comprehensive understanding of the arts, business, and the connections between these communities. Through more than two decades of service as a panelist and consultant for the Endowment, Ivey has gained a strong working knowledge of the agency's mission, programs, and policies. Ivey is the first Endowment Chairman who has developed and run a nonprofit cultural organization. During his 25-year professional career in both private and public sectors, Ivey has forged strong and productive relationships between nonprofit and commercial arts. Since 1994, Ivey has served as an appointee to the President's Committee on the Arts and the Humanities and was a major contributor to the Committee's report to President Clinton, "Creative America," an analysis of American cultural life. Ivey has been a forceful voice on many arts policy issues.

From 1971 to 1998, Ivey was Director of the Country Music Foundation in Nashville, Tennessee. Called a "mecca with a mission" by the *Wall Street Journal*, the Foundation is accredited by the American Association of Museums as a nonprofit education and research center. It operates the Country Music Hall of Fame and Museum, manages historic properties, and publishes a respected journal. As the Foundation's leader, Ivey worked to encourage the investment of public dollars to promote cultural tourism, advance arts education, and increase community resources. The Foundation has earned several Endowment grants for its excellent programs and recently broke ground for a new \$35 million museum and library complex, a project Ivey guided from its inception. For his work and leadership, Bill Ivey was honored by Tennessee Governor Don Sundquist at the 1997 Governor's Conference on the Arts, and praised by the Tennessee Arts Commission as a community partner.

Ivey's extensive involvement with the Arts Endowment dates from 1975. He has chaired or served on fifteen different Endowment grant panels including those for jazz fellowships, folk and traditional arts, and the former Challenge and Advancement programs.

Ivey is a staunch protector of America's living cultural resources and a passionate advocate for many diverse art forms. A folklorist and musician, he is recognized for his national leadership in preserving historic recordings of popular and classical music. A teacher and writer, he was a Senior Research Fellow at the Institute for Studies in American Music of Brooklyn College and also taught at Vanderbilt University's Blair School of Music. Ivey is a national trustee of the National Academy of Recording Arts & Sciences and served two separate terms as Academy chairman.

Ivey was born in Detroit in 1944, and grew up in the Upper Peninsula of Michigan. He was educated at the University of Michigan and at Indiana University. He holds degrees in history, folklore, and ethnomusicology.

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NATIONAL ENDOWMENT FOR THE ARTS

NEWS RELEASE

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MEDIA ADVISORY
For Immediate Release
May 22, 1998

Contact: Cherie Simon
202-682-5570

**William J. Ivey Confirmed by U. S. Senate
as Chairman of the National Endowment for the Arts**

Washington, D.C. -- **William J. Ivey**, nominated by President William Clinton as the seventh Chairman of the **National Endowment for the Arts**, was unanimously confirmed by the **United States Senate** on Thursday, May 21, 1998. William Ivey succeeds Jane Alexander, whose term as Endowment Chairman ended in October 1997.

President Clinton said, "I am delighted that the Senate has confirmed William Ivey as Chairman of the National Endowment for the Arts. Mr. Ivey possesses a deep understanding of and commitment to American creativity. His demonstrated leadership in both the nonprofit sector and the entertainment industry, combined with his extensive experience with the National Endowment for the Arts, make him a tremendous asset to the agency and to American cultural life."

The National Endowment for the Arts is the Federal grantmaking agency that Congress created in 1965 to support the visual, literary, design, and performing arts to benefit all Americans. The Endowment's mission is to foster the excellence, diversity, and vitality of the arts in the United States, and to broaden public access to the arts.

— A biography for William Ivey is attached —

###

*file NEA***SUMMARY****National Endowment of the Arts v. Finley**

The Court, per Justice O'Connor, held 8-1 that the statute requiring the NEA to "tak[e] into consideration general standards of decency and respect for the diverse beliefs and values of the American public" did not violate the First Amendment. Essentially, the Court concluded that "decency and respect" factors were akin to the "artistic excellence" criterion that the NEA already uses in its awards. First, it held that "decency and respect" considerations do not preclude or punish the expression of particular views, nor do they inject a "greater element of selectivity than the determination of artistic excellence itself." Second, the Court ruled that the "decency and respect" restrictions were permissible because NEA awards are limited and disbursed in a competitive process. If this statute were ruled unconstitutional, the Court reasoned, it would mean that all government programs awarding scholarships and grants on the basis of subjective criteria such as excellence would be similarly invalid.

The Court took great pains to conclude that the statute was not viewpoint-based and that the "decency and respect" provisions need not intrude on First Amendment values. Moreover, although the Court did not reach whether the NEA's use of diverse panels satisfied the statute's requirements, the tenor of the decision makes it doubtful that the NEA will have to alter its grant procedures in light of the opinion.

Justice Scalia's concurrence emphasized the limited nature of the Court's holding:

"'The operation was a success, but the patient died.' What such a procedure is to medicine, the Court's opinion in this case is to law. It sustains the constitutionality of 20 U.S.C. § 945(d)(1) by gutting it. The most avid congressional opponents of the provision could not have asked for more. I write separately because, unlike the Court, I think that § 945(d)(1) must be evaluated as written, rather than as distorted by the agency it was meant to control."

In Scalia's opinion, the statute would be constitutional even if content-based. To Scalia, government may allocate funds only for NEA projects deemed to be in the public interest without violating the First Amendment. As he stated, "It is the very business of government to favor and disfavor points of view on (in modern times, at least) innumerable subjects -- which is the main reason we have decided to elect those who run the government, rather than save money by making their posts hereditary."

In his dissent, Justice Souter argued that the "decency and respect" provision violated the First Amendment because it was overbroad, and Congress' purpose in enacting it was to chill certain artistic production and display.



NATIONAL ENDOWMENT FOR THE ARTS

file NEA
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OFFICE OF THE GENERAL COUNSEL

TO: BILL MARSHALL

FAX:

FROM: KAREN CHRISTENSEN
202-682-5654 (phone) 202-682-5572 (fax)

DATE: July 23, 1997 **NUMBER OF PAGES: 32**

MESSAGE:

BILL -- IT'S BEEN A BUSY DAY. AUTHORIZATIONS HEARING IN THE AM, SHELDON HACKNEY FAREWELL ADDRESS AT THE PRESS CLUB OVER LUNCH AND BACK TO MY OFFICE TO FIND THIS DRAFT FROM JUSTICE. I HAVEN'T HAD THE TIME TO READ ALL OF IT BETWEEN MEETINGS, BUT THOUGHT THAT YOU SHOULD HAVE IT. LET'S PLAN TO TALK ON THURSDAY. DOJ IS PLANNING ON ASKING FOR AN EXTENSION, BUT WOULD LIKE TO ACHIEVE CLOSURE ON THIS ASAP (SINCE THEY RECOGNIZE THAT THE LONGER THERE IS TO DEBATE CONTENT, THE MORE DISAGREEMENT THERE IS!). TALK TO YOU SOON. KAREN

CONFIDENTIALITY NOTE

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No.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

NATIONAL ENDOWMENT FOR THE ARTS, ET AL., PETITIONERS

v.

KAREN FINLEY, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

WALTER DELLINGER
Acting Solicitor General

FRANK W. HUNGER
Assistant Attorney General

EDWIN S. KNEEDLER
Deputy Solicitor General

STEPHEN W. PRESTON
Deputy Assistant Attorney
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General

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QUESTION PRESENTED

Congress has authorized the National Endowment for the Arts (NEA) to make monetary grants-in-aid that enable qualifying groups and individuals to undertake a variety of projects related to the arts. Congress has directed that, when issuing regulations and establishing procedures governing the grant application process, the Chairperson of the NEA shall ensure that

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.

20 U.S.C. 954(d)(1). The question presented in this case is whether Congress's direction that the Chairperson shall "tak[e] into consideration general standards of decency and respect for the diverse beliefs and values of the American public" facially violates the First and Fifth Amendments.

II

PARTIES TO THE PROCEEDING

Petitioners are the National Endowment for the Arts and Jane Alexander, in her official capacity as Chairperson of the National Endowment for the Arts. Respondents are Karen Finley, John Fleck, Holly Hughes, Tim Miller, and the National Association of Artists' Organizations.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1996

No.

NATIONAL ENDOWMENT FOR THE ARTS, ET AL., PETITIONERS

v.

KAREN FINLEY, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

The Solicitor General, on behalf of the National Endowment for the Arts, et al., respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., infra, 1a-46a) is reported at 100 F.3d 671. The memorandum opinion of the district court (App., infra, 47a-89a) is reported at 795 F. Supp. 1457. The order of the court of appeals denying the petition for rehearing and suggestion for rehearing en banc (App., infra, 90a-94a) is reported at 112 F.3d 1015.

JURISDICTION

The judgment of the court of appeals was entered November 5, 1996. A petition for rehearing was denied on May 1, 1997. App.,

infra, 90a. On July __, 1997, Justice O'Connor extended the time within which to file a petition for a writ of certiorari to and including August 29, 1997. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment states in relevant part as follows:

Congress shall make no law * * * abridging the freedom of speech * * *.

U.S. Const. Amend. I.

Section 5(d) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, provides as follows:

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.
* * *.

20 U.S.C. 954(d). Other relevant provisions of the NFAH Act are appended (App., infra, __a-__a).

STATEMENT

Congress established the National Endowment for the Arts (NEA) to provide federal support, including funding, for artistic undertakings. See National Foundation on the Arts and the Humanities Act of 1965 (NFAH Act), Pub. Law. N. 89-209, 79 Stat.

845, codified as amended, 20 U.S.C. 951 et seq. In 1990, Congress amended Section 5(d) of that Act to provide that the Chairperson's regulations and procedures shall ensure that applications are judged on their "artistic excellence and artistic merit," taking into consideration "general standards of decency and respect for the diverse beliefs and values of the American public." 20 U.S.C. 954(d)(1). Respondents, who consist of four individual performance artists and an association of artists' organizations, brought a legal challenge to that provision, arguing that it constitutes a facial violation of the First Amendment and the Due Process Clause of the Fifth Amendment. The United States District Court for the Central District of California agreed and invalidated the provision. A divided court of appeals affirmed that judgment.

1. Congress created the National Foundation on the Arts and the Humanities to "develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States." NFAH Act § 4(b), 20 U.S.C. 953(b). Congress organized the NEA as a part of the Foundation. See NFAH Act § 5(a), 20 U.S.C. 954(a). Congress directed the NEA to "establish and carry out a program of grants-in-aid" to qualifying applicants. NFAH Act § 5(c), 20 U.S.C. 954(c). Those grants-in-aid, which are distributed on a limited basis under selective criteria, enable "groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts," to engage in enumerated

categories of artistic productions, projects, and workshops. See NFAH Act § 5(c), 20 U.S.C. 954(c).¹

Congress necessarily vested the National Endowment for the Arts with considerable discretion in the administration of the

¹ The NFAH Act originally identified five such categories. See NFAH Act § 5(c), 79 Stat. 846-847. Since 1965, Congress has modified and enlarged the categories to include the following:

(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 or 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, 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.

See NFAH Act § 5(c)(1) to (10), 20 U.S.C. 954(c)(1) to (10). The Act defines many of the relevant statutory terms, including "the arts," "production," "project," and "workshop." NFAH Act §3(b), (c), (d), and (f), 20 U.S.C. 952(b), (c), (d) and (f).

grants-in-aid program, which depends on a case-by-case evaluation of applications, is subject to available appropriations, and can provide funding to only a small fraction (often less than 2 percent) of the applicants who seek public support. Congress has authorized the Chairperson of the Endowment "to prescribe such regulations as [the Chairperson] deems necessary governing the manner in which [the Chairperson's] functions shall be carried out." NFAH Act § 10(a)(1), see 20 U.S.C. 959(a)(1). The Chairperson has codified regulations governing certain agency operations, see 45 C.F.R. Part 1150, but sets forth most of the guidance on the grant-in-aid application and selection process through more informal means, such as application guidelines, which are provided on request to grant applicants.

Since 1965, Congress has occasionally amended the NFAH Act to provide, among other things, legislative guidance with respect to the administration of the grants-in-aid program. See, e.g., Arts, Humanities, and Museums Amendments of 1990 (1990 Amendments), Pub. L. No. 101-512, 104 Stat. 1960. The 1990 Amendments are of particular interest in this case. Before 1990, the Chairperson had made the ultimate decisions on grant applications, see NFAH Act § 5(c), 20 U.S.C. 954 (1988), based on the recommendations of a 26-member National Council on the Arts (Council), see NFAH Act § 6, 20 U.S.C. 955 (1988), and the optional utilization of experts, including peer review panels, see NFAH Act § 10(a)(4), 20 U.S.C. 959(a)(4) (1988). Until 1990, Section 5(d) of the NFAH Act simply provided as follows:

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No payment may be made to any group under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations and procedures established by the Chairperson.

20 U.S.C. 954(d) (1988).

The 1990 Amendments modified Section 5(d) to state in relevant part as follows:

No payment shall be made under this section except on 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.
* * *

20 U.S.C. 954(d). The 1990 Amendments, among other things, also modified the provisions governing the use of experts and consultants by generally requiring the Chairperson to "utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts." NFAH Act § 10(c), 20 U.S.C. 959(c). The 1990 Amendments also directed the Chairperson to issue regulations and establish procedures to ensure that those panels reflect "diverse artistic and cultural points of view" and include "representation of lay individuals who are knowledgeable about the arts." NFAH Act § 10(c)(1) and (2), 20 U.S.C. 959(c)(1) and (2).

The 1990 Amendments were prompted in part by public objections to certain controversial artistic displays that had received NEA funding, including Robert Mapplethorpe's homo-erotic photography and Andres Serrano's photograph, entitled "Piss Christ," which portrayed a crucifix immersed in the artist's urine. See, e.g., 135 Cong. Rec. 9788-9789, 10,323-10,325, 14,431-14,433 (1989). Congress's amendment of Section 5(d) of the NFAH Act reflected a compromise among various perspectives on how to impose greater control over the grant-in-aid award process. See, e.g., 136 Cong. Rec. H9406-H9463 (daily ed. Oct. 11, 1990) (debates on proposed amendments); 136 Cong. Rec. H9673-H9684 (daily ed. Oct. 15, 1990) (same).

2. The four individual respondents in this case had filed applications for federal grants-in-aid under the NEA's Performance Artists Program at the time that Congress was considering the 1990 Amendments. The NEA denied their applications, and they brought suit in district court, alleging, among other things, that the NEA had violated the First Amendment and the NFAH Act by denying their applications on political grounds. After Congress enacted the 1990 Amendments, the artists' association joined the individual respondents in an amended complaint alleging that Section 5(d)(1) -- the so-called "decency and respect" provision -- facially violated the First and Fifth Amendments. See App., infra, 47a-48a, 52a-54a.

3. The government moved for judgment on the pleadings with respect to the individual respondents' claims relating to the

government's denial of their grant applications. The district court denied the government's motion except in one minor respect, App., infra, 55a-68a, and the government and the individual respondents ultimately settled those claims. At the same time that the government moved for judgment on the pleadings, respondents moved for summary judgment on their facial constitutional challenge to Section 5(d)(1). The district court granted that motion and enjoined the NEA from enforcing the language added by the 1990 Amendments. See App., infra, 68a-87a.²

The district court began by rejecting the government's construction of Section 5(d)(1). The government had argued that Section 5(d)(1) did not necessarily require the Chairperson to make specific "decency and respect" determinations in awarding grants and, accordingly, there was no need to reach any constitutional issues. See App., infra, 73a-74a. The government specifically suggested that the NEA could satisfy Section 5(d)(1) by structuring the grant selection process, including the composition of advisory panels, to "ensure" that the "decency and respect" factors would receive implicit consideration. Ibid. The court found that interpretation unpersuasive, ruling that Congress had indicated that "'decency' and 'respect' for diverse beliefs are factors to be

² The district court rejected the government's argument that respondents lacked standing to bring this suit. App, infra, 69a-73a. The court stated that two of the individual respondents (Hughes and Miller) satisfied Article III standing requirements because they had received NEA grants at the time of the suit and they claimed that Section 5(d)(1) had restricted their expressive conduct. The court held that the artists' association, which included NEA applicants and grant recipients among its members, also had standing. Id. at 71a-73a.

considered in determining 'artistic merit,' " id. at 74a, and that those factors must receive explicit consideration, id. at 75a.

Turning to the constitutional arguments, the district court first ruled that Section 5(d)(1) violated the Due Process Clause of the Fifth Amendment because the requirement that the Chairperson take into account "general standards of decency" was impermissibly vague. App., infra, 75a-77a. According to the court, "the decency provision fails adequately to notify applicants of what is required of them or to circumscribe NEA discretion." Id. at 77a. The court also concluded that Section 5(d)(1) violates the First Amendment. Id. at 87a. The court reasoned that "government funding of the arts is subject to the constraints of the First Amendment," id. at 86a, that Section 5(d)(1)'s "decency and respect" provision "clearly reaches a substantial amount of protected speech," id. at 87a, and that Section 5(d)(1) therefore "violates the First Amendment for overbreadth and cannot be given effect," ibid.

4. The government appealed the district court's grant of partial summary judgment on the facial constitutional claims. A divided court of appeals affirmed "essentially for the reasons stated by the district court." App., infra, 3a. Like the district court, the court of appeals rejected the government's construction of Section 5(d)(1). Id. at 7a-16a. The court of appeals concluded that Section 5(d)(1) requires the Chairperson and her advisors to

examine each grant application to determine if it comports with "general standards of decency" and shows "respect for diverse beliefs and values" as they subjectively understand these terms.

Id. at 17a. Based on that construction, the court ruled that Section 5(d)(1) is unconstitutional. Id. at 16a-27a.

The court of appeals concluded that Section 5(d)(1) is void for vagueness under the First Amendment and the Due Process Clause of the Fifth Amendment. App., infra, 16a-20a. It ruled, primarily on the basis of this Court's decision in Grayned v. City of Rockford, 408 U.S. 104 (1972), which rejected a vagueness challenge to a noise ordinance, that grant limitations are subject to vagueness principles. App., infra, 16a. The court of appeals then concluded that the phrase "decency and respect for the diverse beliefs and values of the American public" is "inherently ambiguous" and "impossible to define." Id. at 18a. The court stated:

Since it is not susceptible to objective definition, the "decency and respect" standard gives rise to the danger of arbitrary and discriminatory application. It grants government officials power to deny an application for funding if the application offends the officials' subjective beliefs and values. Inevitably, NEA's decision not to fund a particular artist or project as indecent or disrespectful will depend in part on who is judging the application and whether the official agrees with the artist's point of view.

id. at 18a-20a. The court concluded that, "[w]here First Amendment liberties are at stake, such a grant of authority violates fundamental principles of due process." Id. at 20a.³

³ The court saw no similar problem with applying Section 5(d)(1)'s "artistic excellence" and "artistic merit" criteria, reasoning that the relevant "decision makers possess an expertise in determining 'artistic excellence and artistic merit' that will guide their application of those criteria." App., infra, 18a-19a n.18.

The court of appeals recognized that its holding that Section 5(d)(1) "is unconstitutionally vague effectively disposes of the case." App., infra, 20a. The court nevertheless stated that "the First Amendment's prohibition on content- and viewpoint-based restrictions provides an alternative ground for [its] decision." Ibid. (footnote omitted). The court of appeals rested its analysis on the premise that the government may not impose content-based restrictions on protected speech unless the government demonstrates that the restrictions advance a compelling interest and are narrowly tailored to serve that interest. Id. 20a-21a.

The court of appeals stated that "the presence of government funding alters this framework somewhat," because "[t]he government may make content-based choices 'when it is the speaker or when its enlists private entities to convey its own message.'" App., infra, 21a, quoting Rosenberger v. Rector and Visitors of the University of Virginia, 115 S. Ct. 2510, 2518 (1995). The court noted that "when the government appropriates public funds to establish a program, it is entitled to define the limits of that program." App., infra, 21a-22a, quoting Rust v. Sullivan, 500 U.S. 173, 194 (1991). The court nevertheless concluded that "[g]overnment funding does not invariably justify government control of the content of speech." App., infra, 22a.

The court of appeals stated that "Rust and Rosenberger identify two related contexts in which the government may subsidize speech only if it does so in a way that is viewpoint-neutral." App., infra, 22a. According to that court,

Neutrality may be required because the area is a "traditional sphere of free expression," Rust, 500 U.S. at 200, or because the government has declared its intention to 'encourage a diversity of views from private speakers,' Rosenberger, 115 S. Ct. at 2519.

App., infra, 22a. The court of appeals concluded that "[b]oth approaches support the district court's conclusion that government funding of the arts, in the circumstances of this case, must be viewpoint-neutral." Ibid.

The court of appeals reasoned that "the arts, no less than a university, are 'at the core of a democratic society's cultural and political vitality,'" and that "the NEA's purpose is to support a diverse array of artistic expression." App., infra, at 22a-23a. The court further concluded that Section 5(d)(1)'s "decency and respect" provision imposes impermissible viewpoint discrimination on grant applicants. Id. at 26a. The court of appeals ruled that, "because the government has made no attempt to articulate a compelling interest served by the provision, [Section 5(d)(1)] cannot survive strict scrutiny." Ibid.

Judge Kleinfeld dissented. App., infra, 27a-46a. He recognized that "[a]rtists, and for that matter, non-artists, are constitutionally entitled to express themselves indecently and disrespectfully towards the beliefs and values of as much of the American public as they like." Id. at 28a. He concluded, however, that while the First Amendment's prohibits censorship of indecent expression, it does not require the government to fund such speech. Id. at 29a.

Judge Kleinfeld stated that when the government administers a grant program for the arts, its power to "consider content and viewpoint depends whether the money it gives out is generally available to all who meet some basic standard or whether it is a prize given to a select few." App., infra, 30a. In his view, when the government awards artistic grants on a selective basis, it must inevitably draw distinctions among the applicants based on the government's objectives in providing the financial subsidy. See id. at 30a-36a. Hence, it may properly discriminate "by content and viewpoint." Id. at 36. He accordingly rejected the majority's conclusion that Section 5(d)(1) resulted in impermissible viewpoint regulation.

Judge Kleinfeld also rejected the majority's conclusion that Section 5(d)(1) was void for vagueness. App., infra, 38a-41a. He acknowledged that Section 5(d)(1)'s "decency and respect" provision was imprecise, but he noted that the criteria for awarding prizes for artistic achievement -- such as "artistic excellence and artistic merit" -- are inevitably imprecise. Id. at 38a-40a. He concluded that, in any event, constitutional vagueness principles, which apply to direct regulation of speech, do not apply to grants awarded on selective criteria. Id. at 40a. "An artist applying for an NEA grant has no formula, and is not entitled to one, for the painting or performance that will produce a grant." Ibid.

Furthermore, Judge Kleinfeld stated that "the majority has found prohibitions in the statute which are not there." App., infra, 41a. He noted that Section 5(d)(1), which reflects

Congress's desire to exercise greater control over the NEA's expenditures of taxpayer money, does not prohibit the NEA from providing grants to support indecent or offensive art. Instead, Section 5(d)(1) merely requires that the NEA ensure that "general standards of decency and respect for the diverse values and beliefs of the American public" are "tak[en] into consideration" as relevant factors in the grant selection process. *Id.* at 41a-43a.

5. The government filed a petition for rehearing and a suggestion for rehearing en banc. The court of appeals denied the petition and suggestion. App., *infra*. 90a. Judge O'Scannlain, dissented in an opinion in which Judges Kozinski and Kleinfeld joined. *Id.* at 91a-94a. The dissenting judges concluded that the panel's decision gives the NEA statute "an implausible construction," *id.* at 91a, applies "the 'void for vagueness' doctrine where it does not belong," *id.* at 92a, and extends "standard First Amendment principles to a situation that the First Amendment doesn't cover," *id.* at 94a.

REASONS FOR GRANTING THE PETITION

The court of appeals has ruled that Section 5(d)(1) of the NFAH Act facially violates the First Amendment and the Due Process Clause of the Fifth Amendment. That court's decision, which renders an Act of Congress void in all its applications, is incorrect. The consequences are important. The court of appeals' ruling prevents Congress from making a legitimate legislative choice respecting the expenditure of public funds, a matter over which Congress has broad power. This Court is the final arbiter of

the question whether Congress has transgressed constitutional limitations. In the face of the court of appeals' ruling, the Court should determine whether Section 5(d)(1) violates the First and Fifth Amendments.

1. The court of appeals' decision is flawed for three basic reasons. First, the court gave Section 5(d)(1) an "implausible construction" that does not accurately describe the role of Section 5(d)(1) in the NEA's process for awarding grants. App., infra, 91a (O'Scannlain, J., dissenting from the denial of rehearing). Second, the court of appeals misapplied this Court's decisions in Rust v. Sullivan, 500 U.S. 173 (1991), and Rosenberger v. Rectors and Visitors of the University of Virginia, 115 S. Ct. 2510 (1995), to the NEA's grant program, which selectively awards financial aid to qualifying applicants on the basis of legislatively prescribed criteria. Third, the court mistakenly applied the "void for vagueness" doctrine to the NEA program, which does not implicate the concerns that underlie that doctrine.

a. The court of appeals erred in holding that Section 5(d)(1) of the NFAH Act requires that "the Chairperson, Council, and advisory panels must examine each grant application to determine if it comports with 'general standards of decency' and shows 'respect for diverse beliefs and values' as they subjectively understand those terms." App., infra, 17a. The majority's construction is inconsistent with the plain language of Section 5(d)(1), which has a much more limited reach.

Section 5(d), as enacted in 1965, provided that NEA could provide grants only upon an application submitted in accordance with NEA regulations and procedures. The 1990 Amendments modified Section 5(d) to additionally provide as follows:

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.

20 U.S.C. 954(d) (emphasis added). Section 5(d)(1)'s meaning is clear. It directs the Chairperson to employ regulations and procedures for judging NEA grant applications that ensure: (a) that applications are judged on the criteria of artistic excellence and merit; and (b) that also take into account, as relevant considerations, "general standards of decency and respect for the diverse beliefs and values of the American public."

As Judge O'Scannlain observed, Section 5(d)(1) does not say that "the NEA must use 'decency and respect' as decisive criterion for awarding grants." App., infra, 91a. Rather, Section 5(d)(1) directs the Chairperson to ensure that those considerations are included in the NEA's process for awarding financial aid. The statute, by its terms, gives the Chairperson considerable discretion in determining how to ensure that "decency and respect" are taken into consideration in the grant awarding process.

~~b. If the court of appeals had correctly construed Section~~
5(d)(1), it is possible that the court would have realized that the statute does not violate the Constitution. But even under the

court's mistaken construction of Section 5(d)(1), the court erred in its constitutional analysis. The flaws in the court's analysis are most starkly evident if one first examines the court's holding that Section 5(d)(1) violates the First Amendment by imposing impermissible content-based and viewpoint-based restrictions. See App., infra, 20a-26a.

The court of appeals ruled that Section 5(d)(1) is facially unconstitutional because government funding of the arts "must be viewpoint-neutral." App., infra, 22a. The government does not concede that Section 5(d)(1) necessarily imposes "viewpoint" restrictions. For example, the "decency and respect" provisions may be construed to describe simply the mode or form, rather than the content, of the expressive activity. See Bethel School Dist. No. 403 v. Fraser, 478 U.S. 675, 683-685 (1986); FCC v. Pacifica Foundation, 438 U.S. 726, 743 n.18 (1978) (opinion of Justice Stevens).

Nevertheless, even if one treats Section 5(d)(1) as requiring the NEA to consider viewpoint-based criteria, the court's analysis is incorrect. The court concluded that Congress cannot impose viewpoint-based criteria on NEA grants based on its understanding of two of this Court's decisions: Rust v. Sullivan, 500 U.S. 173 (1991), and Rosenberger v. Rector and Visitors of the University of Virginia, 115 S. Ct. 2510, 2518 (1995). The court erred because it failed to taken into account the defining characteristics of the NEA grant program, which control how the principles announced in those decisions should be applied to this case.

The NEFAH Act establishes a federal program in which the NEA selectively awards a limited amount of public funds to grant applicants based on the relative merit of the applicants' proposed undertakings. In determining what projects or programs should receive funding, the NEA must necessarily make funding judgments based on the content of the applicants' proposals. Congress has established statutory criteria to guide the NEA in making those judgments. The Court's decision in Rust indicates that Congress may do so.

The Court's decision in Rust upheld a federal grant program supporting family planning projects that provided funds only to projects that did not advocate abortion as a method of family planning. See Rust, 500 U.S. at 192-200. The Court explained the Congress can awards grants based on criteria that determine the content of expressive activity, including criteria based on viewpoint:

To hold that the Government unconstitutionally discriminates on the basis of viewpoints when it chooses to fund a program dedicated to advance certain permissible goals, because the program in advancing those goals necessarily discourages other goals, would render numerous Government programs constitutionally suspect. When Congress established a National Endowment for Democracy to encourage other countries to adopt democratic principles, 22 U.S.C. §4411(b), it was not constitutionally required to fund a program to encourage competing lines of political philosophy such as communism and fascism.

500 U.S. at 194. Under Rust's rationale, Congress can selectively fund the kinds of art that the public prefers through the use of content-based and viewpoint-based criteria for awarding grants. That is what Congress did here.

Congress enacted the 1990 Amendments to the NFAH Act to provide guidance on the types of art that are eligible for the Act's special subsidies. Congress first amended the NFAH Act's declaration of findings and purposes to make its intentions clear, stating:

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 that Congress defines.

NFAH Act § 2(5), 20 U.S.C. 951(5). It then directed the NEA to ensure in its regulations and procedures that the NFAH Act funds artistic activities based on "artistic excellence and artistic merit, taking into consideration "general standards of decency and respect for the diverse beliefs and values of the American public." NFAH Act § 5(d)(1), 20 U.S.C. 954(d)(1). It also directed the Chairperson to utilize advisory panels to fulfill that funding objective. NFAH Act § 10(c), 20 U.S.C. 950(c). In sum, Congress amended the NFAH Act to make clear that it was providing funding on a selective basis "to advance certain permissible goals." Rust, 500 U.S. at 194.

The court of appeals argued that Rust's reasoning does not apply by virtue of the Court's subsequent decision in Rosenberger, which held that the University of Virginia, a public institution, violated the First Amendment by refusing to provide money from its Student Activity Fund to finance a Christian student organization's publication. See 115 S. Ct. 2520. That decision, however, addressed a situation that is different from the one presented in

Rust or here. As the Court explained, the University had not simply funded specific projects, but it had, in effect, created a public forum. Rosenberger, 115 S. Ct. at 2516-2520.

That distinction is critical. As the Court explained, the University of Virginia funded the publications of virtually all student organizations that were "related to the educational purpose of the University." 115 S. Ct. at 2514, including 118 of the 135 groups that had applied for money during the 1990-1991 academic year, id. at 2415. Furthermore, the University had funded publications that had discussed religious topics. Id. at 2517. The Christian student organization was denied funding solely because its publication adopted the "prohibited perspective" of expressing a belief in a deity. Id. at 2515, 2517-2518. The Court distinguished Rust on that basis:

There, the government did not create a program to encourage private speech but instead used private speakers to transmit specific information pertaining to its own program. We recognized that when the government appropriates public funds to promote a particular policy of its own it is entitled to say what it wishes. 500 U.S. at 194. When the government disburses public funds to private entities to convey a governmental message, it may take legitimate and appropriate steps to ensure that its message is neither garbled or distorted by the grantee. See id., at 196-200.

It does not follow, however, * * * that viewpoint-based restrictions are proper when the University does not itself speak or subsidize transmittal of a message it favors but instead expends funds to encourage a diversity of views from private speakers.

Id. at 2519 (emphasis added). That characteristic explains the distinction between this case and Rosenberger. The central purpose of the NFAH Act's funding provisions is not to encourage "a diversity of views from private speakers," but rather to support

projects and programs that manifest "artistic excellence and artistic merit" within the meaning that Congress assigned to those terms.

As noted above, the NEA grant program operates on the principle that the numerous groups and individuals will compete for a limited number of grants to "serve public purposes the Congress defines." NFAH Act § 2(5), 20 U.S.C. 951(5). Unlike the University of Virginia's student activities funding program, which provided funding to virtually all student groups to promote a free exchange of ideas, the NEA program selectively provides special awards to an extremely limited number of applicants based on the the nature of the proposed project and whether it satisfies the criteria of "artistic excellence and artistic merit." NFAH § 5(d)(1), 20 U.S.C. 954(d)(1). See App., *infra*, 30a (Kleinfeld, J., dissenting) (noting that only 88 of 5168 applicants for Visual Arts Fellowships won grants in fiscal year 1994).

The NEA grant program, accordingly, is like the situation posed by Rust rather than that posed by Rosenberger. When Congress used the terms "artistic excellence and artistic merit," it indicated that, for purposes of the NFAH Act, the phrase encompassed a "consideration" of "general standards of decency and respect for the diverse values and beliefs of the American public." See NFAH Act § 5(d)(1), 20 U.S.C. 954(d)(1). Congress was entitled to use those terms in that way and, by doing so, limit the program that it funds. In the words of the Rosenberger, Congress provided NEA funds "to promote a particular policy of its own" respecting

artistic excellence, 115 S. Ct. at 2519, and it took steps to ensure that its concept of "artistic excellence" was not "distorted by the grantee," ibid. The court of appeals erred in failing to recognize that fact.

c. The court of appeals' conclusion that Section 5(d)(1) is unconstitutionally vague is also incorrect. This Court has never held that the "void for vagueness" principles developed in cases involving regulation of speech apply to cases involving congressional funding limitations, and there is no warrant for doing so. Furthermore, even if those principles applied, Section 5(d)(1) is not facially unconstitutional because the NEA may implement the "decency and respect" provision through regulations and guidance that provide further precision.

The court of appeals reasoned that grant limitations are subject to vagueness principles primarily on the basis of the Court's decision in Grayned v. City of Rockford, 408 U.S. 104 (1972), which rejected a civil rights demonstrator's argument that a local noise ordinance was void for vagueness. The Court stated that laws imposing vague proscriptions on expressive conduct may raise constitutional issues because such laws may (1) "trap the innocent by not providing fair warning"; (2) allow "arbitrary and discriminatory enforcement"; and (3) thereby "inhibit the exercise of [First Amendment] freedoms." Id. at 108-109. The Court concluded that the noise ordinance was valid because it gave "fair notice," it contained "no broad invitation to subjective or

discriminatory enforcement," and it did not "permit punishment for the expression of a particular point of view." *Id.* at 112-113.

The court of appeals erred at the outset in transplanting Grayned's vagueness principles governing the regulation of expressive conduct to the NEA grant context. As the Court explained in Grayned, a vague law prohibiting expressive conduct can chill speech by leaving uncertain what is prohibited and by allowing arbitrary and discriminatory enforcement. The concern that a vague law may penalize lawful conduct is not present, however in the context of NEA grants award process, because Congress's use of imprecise terms in awarding grants does not penalize speech in any meaningful sense. See App., *infra*, 92a-93a. (O'Scannlain, J., dissenting from denial of rehearing); *id.* at 38a-41a (Kleinfeld, J. dissenting).

The Court's decisions support that conclusion. As noted above, the Court ruled in Rust that Congress may selectively fund family planning projects that do not engage in abortion activities. The Court explained that "when the Government appropriates public funds to establish a program, it is entitled to define the limits of that program," 500 U.S. at 194, and that "a legislature's decision not to subsidize the exercise of a fundamental right does not infringe that right." *Id.* at 193 (quoting Regan v. Taxation with Representation, 461 U.S. 540 (1983)). If the government's decision against funding particular speech does not violate the First and Fifth Amendments, then any imprecision as to what the government will fund likewise does not infringe First and Fifth

Amendment rights. See Rust, 500 U.S. at 193 ("A refusal to fund protected activity, without more, cannot be equated with the imposition of a 'penalty' on that activity."); accord Harris v. McRae, 448 U.S. 297, 317 n.19 (1980).

Even if vagueness principles applied in the NEA grant award context, the court of appeals erred in holding that Section 5(d)(1) is facially unconstitutional. Congress has stated the criteria for awarding NEA grants in terms of general standards, such as "artistic excellence" and "artistic merit," to give the NEA a necessary measure of discretion in awarding grants. See, e.g., Mistretta v. United States, 488 U.S. 361, 372 (1989) (Congress may "delegate power under broad general directives."). Despite the imprecision of the terminology, the court of appeals did not conclude that those grant criteria are unconstitutionally vague. See App., infra, 18a-19a n.18. There is no constitutional impediment to Congress further restricting the grant process to ensure that "general standards of decency and respect for the diverse beliefs and values of the American public" are "tak[en] into consideration" in the grant award process. See Rust, 500 U.S. at 195 n.4 ("Congress' power to allocate funds for public purposes includes an ancillary power to ensure that those funds are properly applied to the prescribed use.").

Even when legislation regulates speech, there is no requirement that the legislation provide "mathematical" precision. See Grayned, 408 U.S. at 110. The question is whether the legislation is unconstitutionally vague in the "particular context"

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in which it is used. *Id.* at 112. Contrary to the court of appeals' reasoning, Section 5(d)(1) is capable of reasonable application in the grant award process. See 41a-43a (Kleinfeld, J., dissenting). Moreover, the NFAH Act authorizes the Chairperson "to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's responsibilities shall be carried out." 20 U.S.C. 959(a)(1). Section 5(d)(1) indicates that the Secretary may adopt regulations to implement the "decency and respect" provisions and thereby eliminate any imprecision that might otherwise be present. Hence, there is no warrant for declaring Section 5(d)(1) facially unconstitutional on vagueness grounds without giving the NEA an opportunity to interpret and apply those terms in a specific factual setting.

2. The court of appeals' decision is not only wrong, but it also presents a matter of exceptional importance warranting Supreme Court review. The court of appeals has facially invalidated an Act of Congress on constitutional grounds. As this Court has repeatedly stated, judging the constitutionality of an Act of Congress is "the gravest and most delicate duty that this Court is called upon to perform." *E.g., Rust*, 500 U.S. at 191; *Walters v. Association of Radiation Survivors*, 473 U.S. 305, 319 (1985); *Rostker v. Goldberg*, 453 U.S. 57, 64 (1981); *Blodgett v. Holden*, 275 U.S. 142, 148 (1927) (opinion of Holmes, J.). It is this Court's special province to provide a final resolution of such disputes, particularly where, as here, the dispute turns on the meaning of the Court's past decisions.

This case particularly warrants the Court's review because, as Judge O'Scannlain and Judge Kleinfeld independently noted, the court of appeals' decision conflicts with the decisions of two other courts of appeals. See 112 F.3d at 1016 n.1 (O'Scannlain, J., dissenting from rehearing en banc); 100 F.3d at 685 (Kleinfeld, J. dissenting). The First Circuit rejected a First Amendment challenge to a State's denial of an NEA grant based on the judgment of the State's governor and the state arts commission that the work was indecent. Advocates for the Arts v. Thomson, 532 F.2d 792 (1st Cir.), cert. denied, 429 U.S. 894 (1976). The court of appeals reasoned:

The decision to withhold support is unavoidably based in some part on the "subject matter" or "content" of expression, for the very assumption of public funding of the arts is that decisions will be made according to the literary or artistic worth of competing applicants.

532 F.2d at 795.

The Seventh Circuit rejected a similar First Amendment challenge in Piarowski v. Illinois Community College, 759 F.2d 625 (7th Cir. 1985). The court of appeals concluded that the college administration did not violate the First Amendment by instructing the chairperson of the art department to relocate visual art that had generated complaints within the school community.¹ The court noted that the art was not obscene and "not wholly devoid of

¹ The art work included depictions of "the naked rump of a brown woman," "a brown woman from the back, standing, naked except for stockings, and apparently masturbating," and "a brown woman * * * crouching in veneration before a robed white male whose most prominent feature is a grotesquely outsized phallus." 759 F.2d at 627.

artistic merit, or at least artistic intention." *Id.* at 627. The court nevertheless concluded that the college authorities could require relocation of the art, stating:

The college authorities were worried that [the art work], created by the chairman of the college's art department and exhibited in an alcove off the college's main thoroughfare, would convey an image of the college that would make it harder to recruit students, especially black and female students. If we hold that the college was forbidden to take the action it took to protect its image, we limit the freedom of the academy to manage its affairs as it chooses.

759 F.2d at 629-630. In other words, the college was allowed to take into consideration the type of concerns embraced by Section 5(d)(1)'s "decency and respect" provisions.

The court of appeals' decision will have important practical implications because it broadly limits the power of Congress to impose selection criteria on programs that fund expressive conduct. As the dissenting judges stated,

The majority's opinion does far more than give a hostile construction to a Congressional enactment in order to create a conflict with other circuits and Supreme Court precedent, and overturn a law. It sows the seeds of an imprudent First Amendment jurisprudence which will entangle and choke Congress' ability to control public funds used to sponsor any sort of free expression.

App., *infra*, 94a (O'Scannlain, J., dissenting from the denial of rehearing en banc). Review by this Court is accordingly warranted.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

WALTER DELLINGER
Acting Solicitor General

FRANK W. HUNGER
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JULY 1997



UNITED STATES DEPARTMENT OF EDUCATION
THE SECRETARY

file N/A

September 3, 1997

Honorable Tom Harkin
United States Senate
Washington, DC 20510

Dear Tom:

I am writing in support of the bipartisan effort by Senators Warner and Kennedy to appropriate \$1.1 million in the Labor, HHS, Education bill to plan for celebrations in the year 2000. These funds would permit the Department of Education to begin planning efforts in fiscal year 1998. In light of new estimates of reduced new funding needed to pay for service and teacher cancellations in the Perkins Loan program in fiscal year 1998, funds for the Millennium 2000 program can be provided by reducing funds for Perkins Loan Cancellations by the identical amount.

The Administration sees the convergence of a new century and the next millennium as a special opportunity for the nation to reflect on our past and to imagine the future. We propose a series of events that will engage Americans in activities that tap into our spirit of renewal, marshal our collective will and resources, preserve our heritage, and give permanent gifts to future generations. In his 1997 State of the Union Address, President Clinton challenged our artists and scholars, our museums and libraries to "join with all Americans to make the year 2000 a national celebration of the American spirit in every community -- a celebration of our common culture in the century that has passed, and in the new one to come in the new millennium, so that we can remain the world's beacon of liberty and creativity, long after the fireworks have faded."

The year 2000 is the 200th anniversary of the occupancy of the White House by American presidents, and the 200th anniversary of the establishment of the federal Capital city in Washington, DC and the first meeting of Congress in the new capital (on November 17, 1800). These milestones are an opportunity to celebrate our democratic system of government.

The funding you are considering will assist the bipartisan planning efforts that must begin this year. The Department of Education will convene a group of advisors; support a small interagency task force to coordinate government efforts; develop materials to stimulate grass-roots participation; develop community and schools recognition programs; and begin to engage our citizens, voluntary organizations, corporations and levels of government in dignified and

Page 2

meaningful activities. Enclosed is a proposed budget for these activities. This modest investment will enable us to begin planning for the year 2000 observances, and provide lasting gifts to the nation and the world.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Dick", written over the typed name.

Richard W. Riley

Enclosure

The White House Millennium Program will establish goals, plan programs and events with other federal agencies and levels of government, engage citizens and nonprofit organizations, and develop materials to stimulate grass-roots support. For FY 98, the following needs are anticipated:

Annual support for interagency task force (rent, telephone, supplies, machines)	\$ 125,000
Travel - outside experts and staff	20,000
Printing/mailling to participating groups; two national mailings	400,000
"Millennium Communities" and "Millennium Schools" recognition program (guidelines, selection process, logo or plaque)	100,000
Workbooks for communities and schools on how to create local millennium programs	400,000
Advisory Committee expenses	36,000
TOTAL	\$1,081,000



NATIONAL ENDOWMENT FOR THE ARTS

filed

The Nancy Hanks Center
1100 Pennsylvania Avenue NW
Washington DC 20506-0001
202/682-5400

September 21, 1998

To: Melanne Verveer
Ellen Lovell

From: Cherie Simon

Subject: National Press Club Speech

Enclosed is a transcript of Bill's speech, including the "Q & A" that followed. I've also sent you a couple of press clips on the speech in case you missed them. This may be the first relatively positive Washington Times article we've ever gotten.

I hope you're both well. Take care.

[HOME](#) [HEADLINES](#)

► NATIONAL PRESS CLUB LUNCHEON SPEAKER WILLIAM IVEY,
CHAIRMAN, NATIONAL ENDOWMENT FOR THE ARTS;
► MODERATOR: DOUG HARBRECHT PRESIDENT, NATIONAL PRESS CLUB
NATIONAL PRESS CLUB BALLROOM THURSDAY, SEPTEMBER 17, 1998

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MR. HARBRECHT: Good afternoon and welcome to the National Press Club. This is our 90th anniversary year. My name is Doug Harbrecht. I'm president of the National Press Club and Washington News editor of Business Week magazine, a McGraw-Hill companies publication. I'd like to welcome club members and their guests in the audience today as well as those of you watching on C-SPAN or listening to this program on National Public Radio.

Before introducing our head table, I would like to remind our members of some upcoming speakers. Next week former Secretary of State James Baker speaks about his experiences during the Cold War and looks ahead to the new future on September 23rd. Ted Forstman (sp), venture capitalist and founder of The Children's Scholarship Fund, speaks on September 28th. On October 1st, Senator Joseph Lieberman of Connecticut will discuss the future of education reform as well as some other topics, which we will ask him about. (Laughter.) And October 2nd Army Chief of Staff General Dennis Reimer will speak. Transcripts and audio files of National Press Club luncheons will be posted this afternoon at our website at npc.press.org. To purchase audio and video tapes please call 1-888-343-1940. If you have any questions for our speaker today, please write them on the cards provided at your table and pass them up to me.

I will ask as many as time permits.

I'd now like to introduce our head-table guests and ask them to stand briefly when their names are called. Please hold your applause until all our head-table guests have been introduced.

From you right, Julia Deane (sp), the Washington Times; Carl Hartman, Associated Press; Penny Bender, Nashville Tennessean; Irving Milotsky (sp), the New York Times.

I am going to violate my own instruction for just a minute please. We have with us today Kate Goggin. Kate has been my executive assistant up here at the National Press Club for the last two years. She is going to be leaving shortly.

She is wonderful. I hope many of you have had a chance to meet Kate over these past two years. She has been a life-saver. She's worked very closely with Ken Eskey (sp). She is going to be communications consultant and managing editor of her web site, "The Art of International Living," and I just want to recognize her for the fine work she's done. Kate, thank you very much. (Applause.)

Ann Greer (sp), the National Museum for Women in the Arts and theater critic for America Online; Ken Eskey (sp), chairman of the Speakers Committee; Gordon Smith (sp) -- skipping over our speaker for just a minute -- Gordon Smith (sp), the Gordon Smith (sp) Company and member of the Speakers Committee, who arranged today's lunch; Douglas Wheeler (sp), president, Washington Performing Arts Society; Trey Graham (sp), USA Today; Maria Recio, Fort Worth Star Telegram; Louise Remy (sp), speechwriter for Nancy Hanks (sp) and first chairman of the Endowment for the Arts; and Jay Carter Brown (sp), chairman, U.S. Commission of Fine Arts Innovation, the Arts Network. Many of you know Jay Carter Brown (sp). Welcome. (Applause.)

Our speaker today, Bill Ivey, seventh chairman of the National Endowment for the Arts, seems to have arrived in his new post from several different directions. (Scattered laughter.)

Regarded by some as a Southern voice in the art spectrum, he is a celebrated folklorist and musicologist by way of the -- get this -- University of Michigan, Indiana University, Brooklyn College and Vanderbilt University.

Called an "amazing generalist" by Michael Green (sp) of the National Academy of Recording Arts and Sciences, Mr. Green went on to say that, "if you look at his track record in terms of arts advocacy, he has always gone down the center." This could be an attribute the White House was looking for when it approved Mr. Ivey to run the 33- year-old agency, as well as the stated reason: the president was looking for someone who could come in and run the agency right off the bat. His ability to take charge at NEA bears a strong relationship to his service on 15 NEA panels and as chairman of the agency's Folks Arts Panel.

Regarded as a strong voice in national arts policy, Mr. Ivey said at the time of his appointment that, "I would welcome the possibility of working in a leadership role and it would be the ultimate job for me." He has stated a firmly held belief that America's creativity is democracy's calling card, worthy of support by all Americans.

Mr. Ivey seems to be acting in a leadership role already, considering his varied experience as director of the Country Music Foundation in Nashville, as a member of the President's Committee on the Arts and Humanities, and trustee and former president of the National Academy of Recording Arts and Sciences.

One of the tasks implicitly laid on Mr. Ivey's doorstep, according to some, seems to be preservation of the National Endowment. Its budget has been on the threshold of extinction by Congress on more than one occasion. One saving grace has been its role as the economic engine of the arts in communities receiving its grants, an approach effectively argued by former Chairman Jane Alexander, who traveled the length and breadth of the land to bring new support of the arts to the forefront.

This year, as always, NEA's \$98 million budget survived with the very important assistance of congressional art guardians Representative Sidney Yates and Senator Daniel P. Moynihan. Mr. Ivey believes that strong bipartisan support for the agency will win out in the long run, according to his comment when he was confirmed by the Senate in May of this year.

When he's not busy protecting the nation's program for the arts, Mr. Ivey is an amateur guitarist and pilot.

Ladies and gentlemen, Mr. Bill Ivey. (Applause.)

MR. IVEY: Thank you, Doug. And thank you, Gordon Smith, for putting this luncheon together. Coming before the National Press Club is a great honor and certainly an important opportunity. I had actually blocked off an hour early this morning, between about 6:30 and 7:00, just to do a last run through of the speech at home. And I stepped outside on the little stoop in front of my home and the door closed behind me, and I was locked out. (Laughter.)

And an hour later I was back inside, trying to figure out if there was a lesson that I could apply to my remarks today, and I think the lesson is that if I can spend half an hour with a screwdriver and hammer, breaking into the front door of a house in Georgetown and not get caught, I can get more money for the National Endowment from this Congress! (Laughter, applause.) And I did that and I will do that.

About 18 months ago, when I back in Nashville running the Country Music Foundation, you know, I was a long-time Endowment applicant and panelist, grantee, and, at times, a rejectee, and I followed from that distance the intense debate that raged over the National Endowment for the Arts. As I saw it, the Endowment's survival was then reduced to an argument about what some claim the Endowment did, rather than consideration of what the Endowment is and what it means to the American people.

This point was brought back to me in a different way over Labor Day weekend. I flew for nine hours. I flew in my 1939 Piper Cub, to bring that airplane from Nashville up to northern Virginia -- a very hot day. And as you know, heat makes air less dense, and airplanes in thin, hot air just don't perform the way they might under normal conditions.

So I found myself in that Cub, that little yellow Cub, after taking off from Middlesboro (sp), Virginia, circling the city at 500 and then 700 and then 900 feet, no doubt scaring the population, trying to gain enough altitude in that thin air to fly the Cub up over the Appalachians. Even as a trained pilot, I never really thought about density of air until I really needed that weight. I took it for granted. And I've thought that like the air we breathe, the arts in America are sometimes -- too often -- taken for granted. They so permeate our lives and are so central to who we are that sometimes forget the close connection between the arts and the American people.

It is that very connection that explains, I think, why the National Endowment for the Arts has survived and is now moving forward. Several months ago, when this luncheon was first planned, I fully expected to be standing before you with the agency locked in its annual battle of the budget, looking for a compromise between zero funding in the House and full funding in the Senate. But to our delight, that didn't happen. The House has voted to fund us at \$98 million, and the Senate is now considering -- in fact, we had a very positive vote just the other day -- now considering a proposed budget of \$100 million. If approved, it will be the first Endowment increase in eight long years.

Now I'd like to thank those members of Congress on both sides of the aisle who supported the NEA. This is really good news. But more importantly, it is a turning point not only for the Endowment but, I think, for our country. Even a small increase will have symbolic significance that cannot be overstated.

This could not have happened without the strong support of the Clinton administration. By supporting the Arts Endowment and its own programs in the White House Millennium Council, the administration has demonstrated its commitment to America's cultural heritage, and we at NEA are grateful.

I'm also grateful to the tens of thousands of supporters -- private citizens, arts organizations, governors, mayors, civic and business leaders, teachers and school administrators -- who believe that music, literature and visual arts are essential to American life and have consistently rallied to our defense. They let their voices be heard, and many of our supporters -- I talked to many of them earlier -- are right

here in this room. And I thank you. Your voices and your active and enthusiastic support turned the debate from "How can you fund the NEA?" to "How can you not fund this vital agency?"

Well, of course, I believe the arts are central to who we are. Many of you know from things that have been written about me that I'm a folklorist by training. And I approach life and the arts from the perspective of a folklorist. And one of the things that folklorists know at the very core of their being is that creative expression is central to the lives of individuals and communities.

To the folklorist, art is the great window into culture, for societies carry memory and values in images, stories, dances and songs. Individuals and communities use art to express themselves and to communicate to craft a face and a personality for community life. So to me art is more than important; it is central to how we see ourselves, what we believe about ourselves, and how we present ourselves to each other.

The arts are especially important in a complex democracy like ours. After all, democracy offers the promise of equal participation to hundreds of cultural traditions that share our landscape -- Native American to Asian, European, black and Hispanic. And this promise translates into an endless process of negotiation and accommodation.

We know how tough that negotiation can be, how challenging it can be to the very fabric of our civil society. But art represents a place in which borrowing, blending and sharing can really work. Art gives us a place for the guilt-free flow of ideas across cultural lines and cultural barriers. As singer-songwriter Paul Simon wrote a few weeks ago in his insightful New York Times essay on George Gershwin, music is sometimes the only benign avenue of communication between antagonists. What holds for music is true for the full spectrum of artistic endeavor.

So American art is not just one thing.

Our democracy won't let us claim the kind of vertical national artistic establishment that can be the boast of some European nations. In America, far too many cultural traditions stand shoulder to shoulder to support such a misconception. But although we don't claim a single national culture, we do possess a great national arts process of borrowing, sharing, and of shaping entirely new art forms from the intersection of communities and ideas. That process, derived from our deepest democratic principles, has made our way of making art the envy of the world. And the collision of cultures that has at times strained our union has simultaneously produced some of our most significant cultural achievements.

Think of it this way. Musical theater is opera, plus American popular song, with a big pinch of Vaudeville. Or take country music. It's English folk song and African American blues and church music and 19th century popular song. American film, in a different way, is technology colliding head on with the stage and the theater. So, much of our creative life can be broken down this way. In fact, the Endowment funds this kind of process. A few days ago down in Birmingham, I visited one of the many sites of our project, Open Studio, an unprecedented partnership with the Benton Foundation. This 10-site program links artists with the Internet exactly in the kind of confrontation that sets off creative sparks. And art making and consuming art and learning art automatically brings into play the finest of our democratic principles -- tolerance, generosity, fairness, openness, opportunity, freedom of expression and creativity.

Now, these are some of the deepest philosophical principles on which our nation was founded, and these values are embedded in the work of artists and in America's unique arts process.

Now, what is the value of this arts process to our citizens? I would argue that, above all, this potent manifestation of our democracy has made us a creative people. Made us a creative people. How could it

be otherwise? We draw from and have access to the very best of virtually every culture and every nation on Earth. And I would argue that this creativity is possibly our greatest national resource. Because it is so valuable to our nation, it must be encouraged and preserved.

A decade ago, we all read article after article about the decline of America's role as a world economic leader. Our society had, in effect, written the obituary for our spirit of innovation and declared that our nation was in a sense destined to go the way of other failed civilizations. We began looking across the ocean to other countries for models of what we should be doing. But that self-doubt, we know now, didn't last long. True to the American spirit of innovation, we adapted to our new environment, we adopted new economic strategies, and we emerged the economic envy of the world.

Now, many reasons have been put forward to explain this transformation, but I believe it was America's irrepressible creative spirit that triumphed once again, and it is important and right that we find ways to nurture this kind of national creativity.

So is there a federal role in the arts? The great Jefferson argued that in a democracy every generation would create its culture anew, that cultural heritage as we talk of it today would be a thing of the past. Tocqueville told us later that we were, as a people, too fixated on the frontier, too grounded in the practical and too suspicious of great ideas to ever be a nation defined by arts and letters. Of course, they were wrong.

But I believe those great thinkers started us on a path that would make it easy, all too easy, for America's leadership to see the arts as secondary in our democracy. So, during my confirmation process back in the spring, I did encounter the argument that there is no appropriate federal role in the arts. "Art will happen on its own," critics said. You know, to a certain extent, I agree, but isn't there an important role in carrying forward our great American way of making art?

And, in an age in which so many observers tell us that we are not one people at all, that we have no common identity or purpose, isn't it crucial to nurture that great artistic process that unites us, that embodies the best of our democratic principles and is, in fact, envied all over the world? When the Endowment supports artists early in their careers, an artist like Julie Taymor, who recently won a Tony Award for her work in the extraordinarily innovative "The Lion King," we are, through that process, nurturing American art-making.

Great artistry like Julie's, in a sense, exists in its own realm, hard to teach. Maybe we can't teach it. But creativity -- finding the magical, unexpected connections that make something new out of the old -- that can be taught. And there's no more important investment that can be made by our nation than an investment in ourselves as a creative people, and nothing informs creativity better than making, watching and learning about art and artists.

I said recently in an interview that I wanted our citizens to see the NEA as equal in importance to the Department of Defense. Now, I was talking about commitment, not necessarily talking about dollars -- (laughter) -- although we certainly need more money to do the job that America wants us to do.

I was observing that while we all understand that it is important that our nation has the ability to defend itself against external threats, I would argue that advancing America's living cultural heritage and nurturing our national creativity constitutes a kind of internal defense in which we preserve our values and strengthen our citizenry. That's why the Arts Endowment works so closely with other federal agencies, such as the Department of Education, the Department of Justice, Health and Human Services, Foreign Service -- our (Foreign ?) Service and so on, to assure that arts are included in their very important

programs.

To me, federal support of our living cultural heritage is an act of deep patriotism. I am going to say a word or two about the Arts Endowment.

Over the past three decades, the Arts Endowment's role in serving a society as complex as ours has evolved and changed. Today the Endowment serves a broader more diverse audience. We mirror the complexity of the democracy we serve. We have taken on issues of age and gender and ethnicity, and we have come to understand that the magic of creation and art is not in any one art form or in any one place or in any single institution.

So what best represents the Arts Endowment of today? The endowment is a literature fellowship to Eudora Welty. It's a grant to help create the Academy Award-nominated film "Hoop Dreams." The endowment is support for a cowboy poetry gathering in Elko, Nevada; a grant to a symphony orchestra in Cedar Rapids, Iowa; a grant to Indian artists in Cordoba, New Mexico; and a grant to help redesign the destroyed downtown Oklahoma City after the terrible bombing. The endowment is artists and schools and musicians traveling to small towns and theater in the town square. It represents America at its most eclectic, its most authentic and at its creative best.

Now as I talk to you today about nurturing the vitality of our country and its artistic endeavors, it seems the perfect opportunity to announce the results of a new Endowment survey. The Endowment's new National Survey of Public Participation in the Arts first perfectly underscores the importance of the arts to the people of our nation.

The report surveyed attendance at arts-related events and also personal involvement in the arts.

And not surprisingly, we found that Americans embraced the arts and actively participate in them in record numbers.

Fifty percent of Americans -- that's 97 million people -- attended an arts activity during the past year. That's up significantly from the 41 percent participation that we found back in 1992. Audiences were up across the board, but especially for art museums, musical plays, classical music and opera. And in fact, the most popular arts activity for Americans is visiting museums. There was a nice piece in the Wall Street Journal this morning which I think conveys some of the same story.

Millions are singing in choirs, taking photographs, writing articles, performing in plays, and playing jazz. The results are really exciting. And if you're interested in seeing a more detailed breakdown of the findings, we have copies of the survey with us. And there'll be an even more complete survey that will emerge in November.

Talk about arts lovers, just a few weeks ago right here in Washington some of you reported about fans who in the wee hours of a Sunday morning began lining up to get tickets for the National Gallery's upcoming Van Gogh exhibit. They had 2,600 diehard art aficionados braving 97-degree heat, long lines, hours of waiting, no bathrooms -- sounds like flying in a Piper Cub to Virginia -- (laughter) -- to make sure they don't miss this once in a lifetime exhibit. I'm proud that the arts endowment indemnity program has been able to help support their dedication by -- through our indemnity program, which helps make big exhibits like this and others possible.

Now, I see this great affirmation of the arts that's in our survey as another occasion to move forward. So let me share just a bit of my vision for how the endowment will work to serve the American public

over the next few years.

First of all, the arts endowment is dedicated to preserving America's living cultural heritage. We must get back to the business of supporting those living artists who have demonstrated excellence in their work. Have to do that. And we have to make sure that America's arts organizations are strong for the next American century.

Now, the arts endowment is actively in preserving our nation's treasures. For example, one of the first appearances I got to make as chairman of the endowment was for a White House millennium project called SOS 2000. "SOS" stands for "Save Outdoor Sculpture". It is a public-private partnership, including Target stores, to save public sculpture that is deteriorating and is at risk of being lost. A wonderful program.

Second, I want to extend the benefits of public support for the arts by increasing public access to the arts everywhere -- from Anchorage, Alaska to Waterloo, Iowa; from Nacogdoches, Texas to Whitesburg, Kentucky.

To accomplish this ambitious goal, we'll use technology, and we will also target Endowment support to areas of special need. The Endowment's Arts Reach program is designed to do just that, to reach beyond the largest metropolitan areas in 20 target states where NEA support can be most helpful.

Just last week, I traveled to Birmingham, Alabama -- when I saw the Open Studio project -- to announce the first Arts Reach grants to organizations in that state. These organizations -- and there were nine of them in Alabama, but many more around the nation -- will sponsor community projects, such as improving an arts education program in Huntsville, designing a civic space in Birmingham. To me, Arts Reach is really more than a program, it is a metaphor for the Endowment's commitment to target NEA funds where they can do the most good.

Third, we must raise the level of understanding about how important arts education is to the social, emotional and intellectual development of our children, our young people. Study after study has proved that children who receive exposure to classes in creative writing, drama, painting and music do better in math and science. It's imperative that the arts be included as an integral part of the basic education of all children, from kindergarten through high school. It is vitally important that we foster more partnerships among our schools and teachers, our arts organizations, and local artists to improve and expand art experience, art activity for our children. Our goal is to engage children and all citizens in a lifelong relationship with the arts.

Fourth, the Endowment will continue to provide leadership and develop arts partnerships in communities large and small throughout the United States and around the world as well. We're looking forward to continuing and strengthening our crucial collaborations with state, regional and local arts agencies; with America's cultural institutions, arts organizations and artists; with our private sector partners; with civic organizations; and with the education community. These partnerships will be the catalyst that will stimulate interest and investment in the arts. And we will encourage new relationships between the entertainment and publishing industries and the not-for-profit arts organization.

Finally, I'll work tirelessly to build a federal commitment commensurate with the vital role of the arts in this great nation. It's time for us -- it's absolutely time for us to raise the bar and set our sights higher; \$98 million just isn't enough.

Increasing that number substantially -- substantially -- will be one of my highest priorities as chairman.

Let me just say a few words of conclusion. As we approach the end of what has clearly been the American century, it is natural that all of our thoughts will turn toward questions of heritage and legacy. If we are ever to take stock of our past and gather this legacy for the future, this is the time to do it. America is at the height of its creativity. We are economically strong; we are at peace in the world; and it is time to ask ourselves some tough questions: What will our cultural legacy say about who we were and what we valued? Have we done enough to ensure that the legacy left to future generations, the legacy they inherit, will be strong, healthy, and intact?

Now, the Endowment, with our partners, can lead this effort, for we do our work at the point where heritage meets legacy, where tradition and inspiration connect to move the hand of the artist. A hundred years ago, when our nation was in its adolescence, an educated American could write an essay, sing a song, play a musical instrument, draw a picture, recite a poem. Sixty years ago, when our nation was in the midst of a great economic depression, our federal government invested heavily in the arts as a strategy to move America toward economic recovery and thereby nurtured the careers of Aaron Copland, Orson Welles and Jackson Pollock.

Today, in a mature nation, an economic giant, shouldn't we find the resources to fund the creative genius that is America? Shouldn't we invest in making certain that every child in America is actively engaged in music, art, literature, dance, theater, sculpture, design and the marvelous wealth of cultural experiences that our diverse democracy offers us? Every teacher, every scientist, every parent knows the enormous benefit of the creative arts to our children. Every senator and congressman, every governor and mayor knows the benefits of the arts to the economy and well-being of our cities and towns and to our citizens.

Shouldn't we, as the mightiest nation on earth, invest in our living cultural heritage and in the national creativity of our people? Of course we should.

And I believe our nation's commitment to its own creativity is the best and most lasting legacy our National Endowment can offer future generations.

Thank you. (Prolonged applause.)

MR. HARBRECHT: Bill, before we get to our questions, there are two people in the audience I'd like to recognize. One is Mark Skorka (sp). He's vice chairman of the American Arts Alliance and president of Opera America. Also, Sharon Percy Rockefeller, president and CEO of WETA, is here with us today. Would you both stand, please? (Applause.)

Bill, the ancient Greeks believed that a state is defined as "civilized" by the way it treats its art and its children. Could you say that that is valid in our society?

MR. IVEY: While part of my mind gathers the thoughts to answer that question, I want to recognize John Brademas (sp), who is the chairman of the President's Committee on the Arts and Humanities and a distinguished leader -- (applause). One of the authors of our --

JOHN BRADEMÁS (sp): And a younger group. (Laughter.)

MR. IVEY: A younger group. That's right.

So I think the -- much of the burden of my argument, I think, had to do with the importance of

nurturing America's creativity and also moving our cultural heritage forward. I feel strongly, partly because of my academic training, that the arts are the vehicle by which we move our values from generation to generation. Folklorists think that way, and I firmly believe that it's true.

I do think a society is judged by the way in which it deals with a living cultural heritage and also with the way in which it connects that heritage to its young people.

In a democracy like ours, in which it's easy to say, "Let commerce solve the problem," or "We're too diverse, we're not one people, we're many different people," it's easy to find an excuse for not taking up the very difficult task of sorting out what is the finest in the multiple traditions that stand shoulder-to-shoulder in our nation. I think that that's a task that we have to take on. Perhaps it's more important than ever before.

And I think we're better equipped to do it than ever before. I think today, at the end of this century, we have the economic resources, and I think we also have the perspective on America's contribution to world culture and the strength of democracy. Those things together, I think, should combine to make -- to give us the kind of commitment that the ancient Greeks perhaps took for granted.

MR. HARBRECHT: One of the biggest criticisms of the NEA has been that it plays to the arts elite. With your background in country music, are you a populist who will take the NEA in a different direction?

MR. IVEY: I think that's a valid question. The NEA has, in fact, been evolving, perhaps not so much in a populist direction but in a direction which takes it toward reflecting the kind of society that America actually possesses throughout its history. If you look at NEA in the early years, it came into being out of a perception that major arts institutions, those great institutions that had carried forward the arts traditions of Western Europe, that those institutions needed support, needed help. And NEA came into existence around that perceived problem and I think did a wonderful job of beginning the federal role in the arts. If you look at the agency's evolution since that time, with the addition of programs in folk arts and a wide range of other activities, it's come to mirror more completely the society that it serves.

I think my role is to serve all of the arts, the entire spectrum that is offered to Americans, help the agency find what is excellent, work with our panels and with our council to sort out the best and support it. I'm grounded as an Americanist. Folklorist by training. I keep coming back to that. But if you look at the arts in America, you can have perhaps three starting points. You can be schooled in those great Western fine art traditions -- classical music, painting, sculpture, dance, opera. One can be schooled in popular culture, in the great commercial culture that has done so much to spread the dream of democracy around the world. Or you can be grounded, as I am, in grassroots folk culture, the diverse community of cultures that kind of create the American mosaic. That's my starting point. But I think any one of those three can be a good place to start in looking at the wide spectrum that the arts offer Americans.

MR. HARBRECHT: Here's a Beltway question. All of Washington wants to know this: How did you tame Jesse Helms? (Laughter.)

MR. IVEY: I had a wonderful meeting with Senator Helms. You know, he's a North Carolina man. We share an interest in the career of Randy Travis, who is a very fine country singer from North Carolina. And I think Senator Helms has a serious interest in grassroots American culture, in American cultural heritage. And I found in my meeting with him what I found in all of the meetings I had with members of the House and Senate during my confirmation process, which is that there's a great willingness to move forward.

I did not hear a single comment, receive a single question about the controversies that emerged around the Endowment a decade ago. All of the questions were about how do we move forward, how do we enlarge the reach of the agency so that it really contacts all of the American people, how do we manage it well to make sure that the citizens' money is being well spent. Those are good kinds of questions that any agency head is happy to receive. I don't mind debating about the federal role in the arts, I don't mind trying to make the agency run better, and I don't mind trying to expand our reach.

So I don't know that I tamed Senator Helms at all. I think he came to me with some very intelligent questions, I responded, and I think we've got a wonderful opportunity, not only with Senator Helms but with all of our bipartisan support, to move forward.

MR. HARBRECHT: Whether we look at Hollywood as a great exporter of American popular culture, another is as the French look at it, which is to keep it out, in what ways is America a cultural world leader, do you think?

MR. IVEY: I might have a slightly different take on this than some observers.

To me, the exciting thing about America's cultural life -- and by this I -- in this I speak in the broadest possible way, talking about television and film and classical music and folk arts. Taken broadly, I think that the reason the world loves American culture, popular and otherwise, is that our cultural life embodies so many principles of our democracy. Perhaps somewhat like sports, the diverse groups that come to our shores and kind of make up that pointilist painting that is America, all have equal access to a kind of economy and a kind of open political system that allows art forms that might in another society have stood on one another's shoulders, here to be arrayed rather proudly side by side. And I think when a purchaser of a CD of a viewer of an American film or of a television program or of a touring classical musician absorbs American culture, they are, in fact, buying into the democratic dream. I think that accounts for the tremendous economic power of our cultural output around the world. And I think it is yet another reason why a federal investment in that cultural life is so important.

MR. HARBRECHT: You mentioned numerous grant winners. But what is the NEA doing to reach out to all struggling U.S. artists? Isn't the grant process cumbersome to creative types?

MR. IVEY: There are a couple of interesting answers to that question.

First of all, Congress actually has restricted the endowment's ability to give direct grants to individual artists. We still support, with fellowships, writers through literary fellowships, folk artists through our national heritage fellowships, and jazz artists. But one of the primary individual art grants programs of the endowment over most of its history, direct grants to visual artists, that program is no more by act of Congress. So I think the first step for us is to get back in the business of nurturing America's creativity by supporting individual artists.

That'll require some work with Congress. We now have congressional members on our National Council of the Arts. And I think we can work with those members to perhaps develop a program that will get us back in the business of supporting individual artists.

Yes, I think that the application process is cumbersome. You know, the guidelines grew, I think, to about 125 pages a few years back. And they are shrinking steadily. We're going to shrink them more this year. And I do think that it's very important, and I think it's --

You know, it's an administration goal that all of the agencies reach out and serve the citizens directly,

that we engage in good customer service. And that was drummed into me when I first became a nominee for the position of Chairman of the Endowment.

I agree with that position. I think we have to serve our customers well, and simplifying the application process is a part of it. We may use the Internet. We may simply have special forms for certain kinds of grants. But I think that engaging the customer, engaging the people we really have to serve effectively, is a very important goal, and we are working on it.

MR. HARBRECHT: To what extent do you fear the "Disneyizing" of art -- theater, movies, TV -- in America; that is, a homogenized, noncontroversial view of the past, the present, the future?

MR. IVEY: When I was director of the Country Music Foundation, one of our primary activities was a museum called the Country Music Hall of Fame. And from that perspective, running a cultural organization that possessed a lot of credibility, that had vast collections and a large research library and publication program, I was able to see the encroachment of commercial culture adopting some of the accoutrements of cultural life. And (I mean -- this ?) -- I mean, the theme restaurant that has guitars on the walls looks a lot like a museum, but we know it's not really a museum.

And I think that it is time above all for not-for-profit organizations, who don't own but who control so much of America's cultural heritage, to make sure that they protect what I would call their territory -- their credibility, their ability to manage their cultural assets as they must by law for the benefit of society -- and to maintain and keep, perhaps at arm's length, those commercial forces that might want to sort of co-opt the business of showing the American public its past without the proper intellectual undergirding.

Now I will say that that same problem offers wonderful opportunities for the not-for-profit world to connect with the for-profit sector. I come from an organization that was right on the fence, one foot in country music and the commercial arts and the other in the process of historical preservation and library work and museum work, trying to be credible and effective in both realms.

Because we were able to work on both sides of that fence, I think a somewhat arbitrary fence, we were able to see some of the wonderful opportunities that exist when you bring things together. And I'll give you one example.

The last project the Country Music Foundation engaged in before I left the staff was the creation of a three-CD set, box set, called, "From Where I Stand," which is a documentation of the African-American experience in country music, tracing black country recordings from the late 1920s right up to the present. This is a ground-breaking piece of work. That story really had not been told. It could only work -- the project could only occur by bringing together the credibility and the knowledge of a cultural not-for-profit organization with the financial resources of Warner Brothers Records and their ability to license the rights to all of these recordings from all these different labels into a single project.

That's just a single example of how the not-for-profit cultural world can work with the commercial sector to, I think, do a great job of preserving a cultural heritage that is too often left to the kind of whimsical character of the commercial world.

MR. HARBRECHT: Well, the number two business magazine in America, "Forbes" -- I can say that because I work for "Business Week", which is the number one business magazine in America -- (laughter) -- says that the top 40 entertainers in the U.S. made this year -- Jerry Seinfeld made \$225 million this year. Fortieth on that list was Julia Roberts; she made \$28 million. The U.S. tax system encourages philanthropy. How do you feel about encouraging these wealthy entertainers to contribute to a fund that

could help out individual artists without stirring congressional anger over the use of NEA funds?

MR. IVEY: Well this is a topic that comes up from time to time. And, you know, I guess any activity of the federal government could find its commercial analog and say, "Well, why doesn't that industry or those individuals of wealth fund it?"

I don't think the question is really about taking the Endowment and making it private. There are opportunities for the National Endowment for the Arts to partner with foundations and individuals that might want to bring their resources into combination with ours to make a certain project happen. But I am loath to take the NEA out into the world of fund-raising for two reasons.

First of all, I don't think it's our job to compete with the very people who we're trying to support. Arts organizations all over the country, even in a growing arts market, are struggling just to make their annual budgets.

And for the federal government through the NEA to be out there trying to arm wrestle dollars away from those institutions, those very deserving and needy institutions, I think is inappropriate.

The second reason, I think there's special value to the federal commitment to nurturing American culture. We have to make a decision as a nation as to whether we care about living cultural heritage, whether we can identify it, whether we care enough to make a dollar commitment on behalf of our citizens to nurturing something that I think, as I said earlier, is as important, perhaps too readily available. It's as important as the air we breathe. It's what gives us identity, what shapes us to each other and shapes what others see of us. That commitment I think has to be made. And for that reason no matter how many private resources we could bring to bear -- and the federal dollar is always going to be a small part of a total arts package that involves foundations and state and local government and private giving and earned income. No matter how many dollars we bring to bear, I think the reason for bringing those dollars to bear is because we are saying as a nation we are one nation, we have a wonderful cultural process, it's crucial that we nurture it, and we're willing to put some dollars where that commitment is. And for that reason I am reluctant to take the agency in the direction of trying to substitute private dollars for what I think is an essential federal commitment.

MR. HARBRECHT: How will the NEA encourage art on the Internet? And are you concerned about legislative attempts to restrict access to some Internet sites? And just another question: What are the NEA's plans for the millennium? (Laughter.)

MR. IVEY: Ah -- (laughs) -- I thought there was a flow there. And then it kind of -- (laughter).

The NEA is very committed to a breadth of new technologies in their relation to the arts. I mentioned in the text of my speech the open studio project, which is a partnership with the Benton (sp) Foundation here in Washington that has set up 10 sites around the country in which artists can actually come in and create their own website. And they can use it for a variety of purposes. They can create art on it. They can use it to connect their work with the work of other artists in a kind of mentoring fashion. Or they can even use it to market their work by publishing on the Internet small examples of their work. So that and other activities of the endowment I think are taking us very aggressively into the digital realm.

In terms of limitations on the Internet, obviously the arts endowment has always taken the position that artists should be -- they are in our society -- free to express themselves in as broad and as open a fashion as possible and to use as many mediums as possible to carry out their work. But we're also aware that as a federal agency and also, for those agencies that might have to license airways and other public routes of

communication, that there are things that our citizens want in terms of restrictions.

Our concern about the Internet is to make sure that arts organizations and artists have good access at a reasonable cost, that they don't get caught up -- that the artistic process is not stunted by commercial interests out on the Net.

For educational institutions, for libraries and for schools, there is an e-rate, which will ensure that those kinds of organizations can participate in the Internet at a very modest price, but that's not yet there for other cultural organizations or for individual artists. So that's certainly an issue.

As far as the millennium, we are very committed. We have a Millennium Office and a series of pretty important projects. We have tended to operate in the area of large grants for big national projects, which we feel is important for the scope and the nature of the millennium. Two that I will mention; one is the project that we're working on with Composers Forum in Minnesota that will bring composers into residence in cities and small towns all over the country. It's a very, very exciting project and one that we think will have wonderful results.

We're also working -- and have funded our Poet Laureate Robert Pinsky to carry out the Favorite Poem Project. Many of you have heard of that project. It will allow Americans to record, sometimes an audio, in other cases in a video form, their favorite poems. These will be broadcast and archived, and it's a wonderful project that we're also supporting.

So the Endowment is looking for those projects that we can partner with other agencies, perhaps in some cases carry out ourselves that don't overlap with what other parts of our government and other private entities are doing to celebrate the millennium. We're very involved.

MR. HARBRECHT: Here is a question from someone who does public relations for a local orchestra out here in the suburbs: How can we persuade our young people to come to concerts, to get them to use their brain and to get benefit out of it? I know I didn't discover Mozart till I was 30, and I didn't discover country music till I was 40. (Laughter.)

MR. IVEY: (Laughs.) Well, you're moving in the right direction at least. (Laughter.) And 60 will be polka bands! (Laughter.) No.

I think the very best thing we can do for young people is to engage them in art in school, at an early age. I spoke about it in the text of my speech. But clearly, we have suffered from the way in which arts have been marginalized in our public-school system over the last 30 years, and it's time to do something to bring K-12 arts education, by professionals in schools, back to the top of the agenda.

I think it's also very important because we have over the years in cities all over the nation, built up an infrastructure of arts organizations; museums and symphony orchestras, art galleries and so on. I think it's important to engage them in doing things to help teachers carry out their work and making sure that in addition to teaching and instruction, there is access. That I think is a major, major initiative in which we have to, as an endowment, partner with the Department of Education and others to bring that to fruition.

I think I will say that I'm encouraged. I think the pendulum, which 10 years ago seemed to be swinging toward less arts education in school, now clearly seems to be moving the other way. And I think that that grounding young people in the experience of making art early in their lives is -- it's not that we're trying to make artists, but we want creative people, and we want engaged people. And we want people who can appreciate, learn from, care about the arts. And the doing of art produces not only great players and

painters, it produces great listeners and lookers. And that's where we have to go. And the clearest way to get there is to attack young people both in school and through connection with the arts organizations around the country.

MR. HARBRECHT: Is country music getting too "pop" and losing its roots? (Soft laughter.)

MR. IVEY: You know, that -- it's very interesting. Country music is one of the most self-conscious of all of America's art forms, you know. One would think that jazz, perhaps, would have the greatest sense of tradition and "are we being true to our tradition, and are we being authentic?" But it really is country music that is constantly testing itself against that standard of "are we really being true to our heritage?"

I think right now country music is in an era of asking that question again. I think it -- I think many observers, both outside and inside the tradition, feel it's gone -- it's "gone pop." But I was in Nashville from 1971 until this year, and that question, that debate raged at least three different times during that 25-plus year period.

And usually when country music gets in this shape, someone comes along, like Ricky Skaggs, Emmylou Harris, Willie Nelson, or Randy Travis, who yanks it back very firmly into the connection with the roots of artists like Hank Williams, whose 75th birthday would have been today, actually -- Hank Williams, had he lived past 29. (Murmurs and exclamations from some audience members.)

MR. HARBRECHT: I've got one -- this is sort of like "Is Goofy a mouse or a dog?" Is Mary Chapin Carpenter a folk singer or a country singer? (Laughter.) Did you know that "Down at the Twist and Shout" is about the old Legion Hall in Bethesda, Maryland, here, locally?

MR. IVEY: Yes, yes, and yes. (Laughter.)

Yes, Mary Chapin Carpenter is a folk singer. And I think she's a folk singer in the sense that folk song has sort of lost its technical definition of something that's really grounded in community and refers today, most of the time, to artists who are singing material they have written themselves, usually with a simple accompaniment, and singing out of a kind of personal experience. I think she certainly fits that mold.

She's also a country singer because she's one of a handful of these folk/acoustically-oriented folk singers who has been able to bring in a mainstream country audience. And there have been a handful of them over the years. I think I would put Emmylou Harris in that category. I think Nanci Griffith has had some success in that area. She's not alone, but I think she's the most successful.

And yes, I did know what "The Twist and Shout" was about -- "Down at the Twist and Shout." And that is exactly what this great singer/songwriter tradition does, which is sort of memorialize the lives and experiences of the people who write and sing the material.

And I think Mary Chapin had a relationship with that club and she memorialized it in song and it became a big country hit.

MR. HARBRECHT: Well, Mr. Ivey, before I ask our last question today, I have some things here for you. One is a certificate of appreciation for appearing today here at the National Press Club. Thank you very much.

MR. IVEY: Thank you.

MR. HARBRECHT: Tremendously enjoyed your discussion. This is a copy of our 90th Anniversary book, "Reliable Sources," of which you became one today. Thank you so much.

MR. IVEY: Very good. Thank you.

MR. HARBRECHT: And I have here a priceless work of ceramic sculpture -- (laughter) -- which has served us well for more than 20 years here at this podium, the National Press Club mug! (Laughter.)

MR. IVEY: Great! Thank you. (Applause.)

MR. HARBRECHT: For our last question today: Do you feel the press has, in general, been supportive of arts and cultural programs?

MR. IVEY: Yes. I think the press has been generally supportive of the arts, cultural programming, and of the National Endowment for the Arts in particular. There have been rare exceptions. But generally, in the debate over the Endowment years back, and certainly in my experience, coming into the chairmanship and my first months as chairman, the press, I think, has a sense of cultural heritage and the importance of the work that we do. And regardless of, say, the bumps in the road that come along, I think the press, in terms of the Endowment, has always taken the larger view that relates to the significance, as I said early in my speech, of not what we do but what we are.

And you know, if I were to leave the chairmanship with one thing being completed, one job being completed, it would be that; that is, that American society, our government, both sides of the aisle, every administration would have a clear sense that a commitment to living cultural heritage is an act of bipartisan patriotism, and that when problems emerged in the support of the arts through what happened with an individual grant, it would never again challenge the existence of the entire agency, but would be dealt with as we do with the Department of Defense and so many other agencies of government, as an individual problem that needs to be solved and that we move on. I think we have an opportunity to do that. I think the time is right to try to accomplish that, and that would certainly be my goal. The press has been supportive in the past, and I have every expectation that that will continue.

Thank you. (Applause.)

MR. HARBRECHT: Well I'd like to thank you for coming today, Mr. Ivey.

I also would like to thank National Press Club staff members Kate Goggin -- Kate, Leanne Bjoirn (ph), Pat Nelson (sp), Melanie Abdow Dermott, and Howard Rothman for organizing today's lunch. And thank you all very much for coming.

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