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LEGISLATIVE WRAP-UP OF THE ARTS

103rd CONGRESS
LEGISLATIVE WRAP-UP OF THE ARTS
103rd Congress

Introduction

The 103rd Congress took action on a broad range of cultural legislation -- from significant education bills with arts education provisions to prevention programs in the Crime Bill to access for cultural organizations to the Information Superhighway. This variety of issues demonstrates the way cultural concerns permeate federal legislation and have a significant role in our national priorities.

This report summarizes the variety of issues with a significant impact on national and local cultural constituencies which the 103rd Congress considered in both sessions. Each issue area contains background information as well as the legislative outcome, with subjects including the federal arts agencies, education, the arts and social issues, broadcasting and communications, trade, budget reconciliation, and museums. Also within this report are the following: a “Quick Glance” chart of the relevant legislation; a digest of arts-related bills from both sessions; and a listing of Presidential cultural appointments.
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"QUICK GLANCE"
Arts Legislation Scorecard

The following is an easy-view report on the major cultural legislation considered during the entire 103rd Congress. Dates given for bill passage refer to the conference reports and for 1994 unless otherwise noted.

<table>
<thead>
<tr>
<th>LEGISLATION CONSIDERED</th>
<th>Final Action\ PL #</th>
<th>Passed Senate</th>
<th>Passed House</th>
<th>Hearings</th>
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<tr>
<td>FEDERAL ARTS AGENCIES</td>
<td></td>
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<tr>
<td>Appropriations for Arts Agencies</td>
<td>PL #103-332</td>
<td>✓ 9/28</td>
<td>✓ 9/27</td>
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<td>Reauthorization (NEA, NEH, IMS)</td>
<td>--</td>
<td>on cal.</td>
<td>✓ 10/14/93</td>
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<td>EDUCATION</td>
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<td></td>
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<tr>
<td>Improving America's Schools Act</td>
<td>PL #103-382</td>
<td>✓ 10/5</td>
<td>✓ 9/30</td>
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</tr>
<tr>
<td>THE ARTS AND SOCIAL ISSUES</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Prevention Programs in Crime Bill</td>
<td>PL #103-322</td>
<td>✓ 8/25</td>
<td>✓ 8/21</td>
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<td>BROADCASTING/COMMS.</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>CPB Funds (Labor-HHS Approps.)</td>
<td>PL #103-333</td>
<td>✓ 9/27</td>
<td>✓ 9/22</td>
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<td>Info. Superhighway (Comms. Act)</td>
<td>--</td>
<td>on. cal.</td>
<td>✓ 6/28</td>
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<tr>
<td>TRADE</td>
<td></td>
<td></td>
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<tr>
<td>Cultural Properties in GATT</td>
<td>not avail.</td>
<td>✓ 12/1</td>
<td>✓ 11/29</td>
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<td>BUDGET</td>
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<td>Cultural Components (Gifts of Appreciated Property, 3% Floor on Deductions, Business Entertainment Deduction)</td>
<td>PL #103-66</td>
<td>✓ 8/6/93</td>
<td>✓ 8/5/93</td>
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<td>Kasich-Penny Budget Cuts (incl. arts)</td>
<td>--</td>
<td>--</td>
<td>def. 11/22/93</td>
<td></td>
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<tr>
<td>MUSEUMS</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&quot;Enola Gay&quot; Exhibit: Air &amp; Space</td>
<td>(See Int. Apps.)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>African-American Museum</td>
<td>--</td>
<td>--</td>
<td>✓ 6/29</td>
<td></td>
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<tr>
<td>MISCELLANEOUS</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Ticket Fee Disclosure Act</td>
<td>--</td>
<td>--</td>
<td></td>
<td>House hearings</td>
</tr>
<tr>
<td>Postal Subsidy Reform</td>
<td>PL #103-123</td>
<td>✓ 8/3/93</td>
<td>✓ 6/22/93</td>
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</table>
LEGISLATIVE WRAP-UP OF THE ARTS
103rd Congress

FEDERAL ARTS AGENCIES

Appropriations for the Arts Grant-Making Agencies and other Cultural Institutions

BACKGROUND: Both the House and Senate held lengthy debates on the appropriations of the National Endowment for the Arts (NEA) in the Second Session of the 103rd Congress. While some Members rose to criticize a specific grant made by the Endowment to the Walker Arts Center in Minneapolis, others -- including many Arts Caucus Members -- spoke of the important work of the NEA and its effect on young people and on their local communities. President Clinton's Fiscal Year (FY) 1995 budget called for a freeze in funding at the previous year's levels for the NEA, National Endowment for the Humanities (NEH) and Institute of Museum Services (IMS), with most other programs or institutions allotted slight increases. The NEA FY '94 freeze level, however, already reflected an approximately 2.5 percent reduction from the FY '93 budget. [See chart on p. 3 for complete appropriations table.]

House

The House Interior Appropriations Subcommittee (Sidney Yates, D-IL, Chairman) generally matched President Clinton's budgets for the arts agencies while calling for an increase of $1 million over the proposed level for the NEA. Following lengthy floor debate and a series of amendments and substitutes, the House on June 23 passed the FY '95 Interior Appropriations Bill (HR 4602) -- including a 2 percent overall reduction in funding for the NEA. The adopted amendment -- a Rep. Norm Dicks (D-WA) amendment (2 percent reduction) to a Rep. Spencer Bachus (R-AL) substitute amendment (4.99 percent reduction) to a Rep. Cliff Stearns (R-FL) 5 percent reduction amendment -- decreased the House Appropriation Committee's (David Obey, D-WI, Chairman) recommended level of $171.1 million to $167.678 million.

Debate on the bill began June 22, when Rep. Philip Crane (R-IL) offered an amendment to eliminate all NEA funding. The amendment was defeated by a 113-313 vote. Rep. Crane objected to a performance by Ron Athey at the Walker Art Center in Minneapolis. The Center received a grant for $104,500 through the NEA's Presenting and Commissioning program in 1993 to support a season of more than 100 performing arts events. House Interior Appropriations Subcommittee Chairman Rep. Sidney Yates (D-IL) stated on the floor that the Walker used less than $150 of the grant toward Mr. Athey's one-night performance. Debate continued on June 23 when Rep. Bachus offered an amendment to strike $91 million from the NEA's budget, eliminating all program grants, maintaining state grants, and reserving $8 million for administrative costs. The amendment failed by a vote of 132-297. Rep. Stearns then offered an amendment to reduce NEA funding by 5 percent. In response, Rep. Dicks offered an amendment to the Stearns amendment to instead reduce NEA funding by 1.5 percent.

Following floor debate during which several Arts Caucus Members rose to express their views, a vote was taken on the Dicks amendment to the Stearns amendment, which passed by a vote of 240-189. Rep. Bachus then offered a substitute amendment to the Stearns amendment (as amended by Rep. Dicks), which would have cut NEA funding by 4.99 percent. Rep. Yates moved to amend the Bachus substitute to the Stearns amendment, offering to cut the NEA by 1 percent instead of 4.99 percent. The Yates amendment (to the Bachus substitute to the Stearns
amendment) initially passed by a vote of 218-214. However, the votes of the delegates and the resident commissioner of Puerto Rico were decisive. When the vote was taken again, the Yates amendment failed by a vote of 210-216.

Rep. Dicks then offered an amendment to the Bachus substitute (to the Stearns amendment), calling for a 2 percent reduction in the NEA's funding. This amendment passed by a vote of 222-204. The substitute Bachus amendment, as amended by the Dicks amendment, was agreed to, and the House lastly turned to passage of the Stearns amendment (as amended), which passed by a vote of 380-41 and set the House NEA level $167.678 million. Final passage of the entire Interior Appropriations Bill occurred on the same day, by a vote of 338-85.

**Senate**

The Interior Appropriations Bill, reported by the Senate Appropriations Committee on June 28 (Robert Byrd, D-WV, Chairman), contained a 5 percent reduction for the NEA with specific targeted decreases.

The Committee cut $8.504 million from the President's NEA request of $170.1 million and targeted specific programs for reduction, including the Inter-Arts: Presenting and Commissioning Program, Theatre Program and Visual Arts Program. While the Committee matched the President's request for state programs and administrative budgets, it recommended a decrease of $1.457 million for matching grants. The Committee addressed the NEA's grant-making procedures, stating that the NEA had informed the Committee that its guidelines would be amended to require grantees to submit written interim reports before the final one-third grant may be received.

The Senate passed the bill -- maintaining the 5 percent reduction for the NEA -- on July 25. An amendment offered by Sen. Jesse Helms (R-NC) to restrict NEA funds for certain grants was tabled by a vote of 49-42. Sen. Helms' amendment mandated that no NEA funds be used "to support, reward, or award financial assistance to any activity or work involving: a) human mutilation or invasive bodily procedures on human beings dead or alive; or b) the drawing or letting of blood." In his floor statement, Sen. Helms criticized the grant that had been made to Ron Athey through the Walker Art Center as well as to photographer Joel-Peter Witkin. Arts Caucus Member Sen. Christopher Dodd (D-CT) rose to oppose the amendment, stating that the amendment "goes far beyond what anyone would ever intend." By way of illustration, Sen. Dodd referred to a book entitled *Art of the U.S. Capitol* and continued: "There are countless examples in this book of art in this very building which involve human mutilation or invasive bodily procedures -- people being shot, people being knifed, the Battle of Lexington, the Battle of Concord, Daniel Boone, and the Indians. The standard incorporated in this amendment, would preclude that art from being supported by the NEA." Other Senators also expressed their opposition to the amendment.

Arts Caucus Vice-Chair Sen. James M. Jeffords (R-VT) then introduced an amendment to restore the NEA funding and to offset the restoration by reducing each of the amounts appropriated in the Act by approximately six one-hundredths of one percent, including the NEA. Sen. Byrd, in rising to explain the position of the Committee and his own, noted that he "would approach the conference with an open mind, both with respect to the ultimate funding level and the distribution of any cuts that might be taken." Following these assurances, Sen. Jeffords
withdrew his amendment and stated: "I am placing my confidence in the Senator from West Virginia [Sen. Byrd] that his method of working with the Endowment will be much more successful and certainly much more desirable than adopting a broad censoring amendment and a vote on my amendment." Sen. Dale Bumpers (D-AR) then moved to table the Helms amendment, which was done so by a 49-42 vote. Later the same day, the entire bill was passed by a voice vote.

**OUTCOME:** The conference report (H. Rept. #103-740) to the FY '95 Interior Appropriations Bill adopted the House-passed 2 percent reduction for the NEA rather than the 5 percent Senate-passed cut. The entire bill was subject to a 0.191 percent across-the-board reduction. The conference report was passed by the House on September 27, by the Senate on September 28, and signed into law (PL #103-332) by the President on September 30.

The conference report also addressed two issues regarding the Smithsonian Institution. First, the conferees expressed concern over the issues raised in the Report of the Task Force on Latino issues and directed the Smithsonian to appoint a permanent Smithsonian employee to implement the recommendations of the Task Force. Second, the conference report referred to the upcoming National Air and Space Museum's display of the World War II plane the "Enola Gay" and noted the conferees expectation that the exhibit "recognize properly and respectfully the significant contribution to the early termination of World War II, and the saving of lives of both American and Japanese, by its crew, the Army Air Service Command and President Truman." [Described in further detail in this Wrap-Up.]

The following chart shows related arts figures, including the final FY '95 conference report levels (in millions of dollars):

<table>
<thead>
<tr>
<th></th>
<th>FY '94 Approp.</th>
<th>FY '95 Pres. Rec.</th>
<th>FY '95 House</th>
<th>FY '95 Senate</th>
<th>FY '95 Conf-Final</th>
</tr>
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<tbody>
<tr>
<td>NEA</td>
<td>170.229</td>
<td>170.100</td>
<td>167.678</td>
<td>161.596</td>
<td>167.358</td>
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<tr>
<td>NEH</td>
<td>177.491</td>
<td>177.383</td>
<td>177.383</td>
<td>177.383</td>
<td>177.044</td>
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<tr>
<td>Smithsonian</td>
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<td>398.879</td>
<td>373.454</td>
<td>369.105</td>
<td>371.093</td>
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<tr>
<td>National Gallery</td>
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<td>57.849</td>
<td>57.434</td>
<td>57.434</td>
<td>57.325</td>
</tr>
<tr>
<td>Comm. of Fine Arts</td>
<td>.805</td>
<td>.834</td>
<td>.834</td>
<td>.834</td>
<td>.834</td>
</tr>
<tr>
<td>Hist. Pres. Fund</td>
<td>40.000</td>
<td>42.000</td>
<td>41.000</td>
<td>42.000</td>
<td>41.421</td>
</tr>
</tbody>
</table>
Reauthorization of the National Endowments for the Arts and Humanities and Institute of Museum Services

BACKGROUND: The authorization for the NEA, NEH and the IMS -- last reauthorized within the FY '91 Interior Appropriations Act (PL #101-512) in 1990 -- expired on September 30, 1993. In May 1993, the Clinton Administration proposed the "Arts, Humanities and Museums Amendments Act of 1993," requesting a two-year extension of this statute. The 1990 reauthorization made substantive changes in the policies and administration of the NEA and included the following changes: 1) Increased funds (to 27.5 percent) allocated for Basic State Grants; 2) NEA program funds reserved (7.5 percent) for programs to expand access to the arts in rural and inner-city areas; 3) Language emphasizing that the NEA may not fund obscenity, with determinations of obscenity left to the courts; 4) additional guidelines regarding peer review panels, such as requiring the participation of knowledgeable "lay persons;" 5) New application procedures, including interim and final reports as well as multiple installments of grant funds; 6) language directing the NEA Chairperson to ensure that artistic excellence and merit are the criteria by which applications are judged, while taking into consideration "general standards of decency and respect for the diverse beliefs of the American public." Appropriations were also authorized for FY '94 as follows: $174.593 million for the NEA; $177.491 million for the NEH; and $28.777 million for the IMS, with such sums as necessary for FY '95. No substantive changes in the 1990 reauthorization statute were requested.

This legislation was introduced in the House (HR 2351) in 1993 by Rep. Pat Williams (D-MT) and in the Senate (S 1218) by Sen. Claiborne Pell (D-RI). A hearing was held before the House Labor-Management Relations Subcommittee (Pat Williams, D-MT, Chairman) in June 1993. No hearings were held in the Senate. After extensive floor debate, the House passed HR 2351 by a vote of 304-119 on October 14, 1993. Two amendments were offered in the House to reduce or eliminate funding for the NEA. Rep. Philip Crane (R-IL) proposed an amendment to abolish the NEA entirely, and Rep. Robert Dornan (R-CA) offered an amendment to reduce funding of the NEA, NEH and IMS by 40 percent. The Crane amendment was defeated 103-326, while the Dornan amendment was defeated 151-281. Reps. Steve Gunderson (R-WI) and Louise Slaughter (D-NY), Arts Caucus Chair, offered an amendment stipulating that NEA funding to state arts councils should bolster and not supplant state spending on the arts. Specifically, the amendment froze NEA funds to states that single out the arts for a disproportionately high reduction. The amendment would only freeze funding for states which, over a period of three years, cut arts funding at a percentage greater than other non-mandatory spending. The amendment was passed by voice vote.

OUTCOME: While the Senate legislation was reported by the Senate Education, Arts and Humanities Subcommittee (Claiborne Pell, D-RI, Chairman) on November 12, 1993 and was pending on the Senate calendar throughout the past session, the legislation was not voted on before the close of the session. The House Labor-Management Relations Subcommittee (Pat Williams, D-MT, Chairman) held field hearings in the San Francisco Bay area on May 15 regarding the next reauthorization of the arts agencies. Because appropriations for the agencies have been signed into law, the agencies will continue to function for FY '95 under current statute.
EDUCATION

Improving America's Schools Act

BACKGROUND: Seeking to authorize funds for cultural programs for at-risk youth, Rep. Eliot Engel (D-NY) introduced the "Community Arts Partnership Act" (HR 2933) on August 6, 1993. The bill authorized the Department of Education to award grants to partnerships of local educational agencies and Chapter 1 schools or cultural institutions to provide coordinated cultural programs for at-risk youth. Such programs would include school-to-work transition, cultural linkages to pre-school programs, curriculum development in the arts, and artist residencies in Chapter 1 schools. For these activities, the legislation authorized $50 million for FY '94, $75 million for FY '95, and such sums as necessary for FY '96 through '98.

In a February 8 mark-up, the House Committee on Education & Labor (William D. Ford, D-MI, Chairman) incorporated the legislation into the Elementary and Secondary Education Act (ESEA, HR 6), which reauthorizes funding for Department of Education programs for five years. The legislation had previously been approved as an amendment to HR 6 by the House Subcommittee on Elementary, Secondary, and Vocational Education (Dale E. Kildee, D-MI, Chairman). On March 25, the House passed the ESEA -- including the cultural partnership provisions -- by a vote of 289-128. The ESEA also for the first time explicitly included an arts-in-education section authorizing a number of arts education activities in the Department of Education. The Senate, which on August 2 passed the "Improving America's Schools Act of 1994 (S 1513)" -- parallel legislation to HR 6 -- included in the bill various arts education projects as well as a section entitled "Cultural Partnerships for At-Risk Children and Youth Act of 1994," similar to the "Community Arts Partnership Act."

Both the House "Community Arts Partnership Act" and the Senate "Cultural Partnerships for At-Risk Children and Youth Act" sought to bring cultural services to at-risk children and youth but differed in some significant ways. The House Community Arts Partnership Act authorized $75 million each year for FY '95 and such sums as may be necessary for FY '96 through FY '98, while the Senate version allocated $20 million for FY '95 and such sums as necessary for each of the four succeeding years. The Senate version also contained a funding "trigger" whereby no funds would be appropriated for the cultural partnerships if the NEA, NEH and IMS were funded below their FY '94 levels ($170 million for the NEA, $177 million for the NEH, and $28 million for the IMS). The Senate bill also established a "National Committee on Cultural Partnerships for At-Risk Children and Youth" to award grants, composed of 8 members -- 2 each appointed by the Secretary of Education, the Chairperson of the NEA, the Chairperson of the NEH, and the Director of the IMS. The House bill established no such committee but instead gave this authority to the Secretary of Education. In addition, the Senate version added the word "cultural" to "arts" references and, rather than referring to libraries and performing, presenting and exhibiting arts organizations, referred to them as "cultural institutions."

OUTCOME: The conference report (H. Rept. 103-761) to the "Improving America's Schools Act" (HR 6) passed the House on September 30 and the Senate on October 5 and was signed by the President on October 20 (PL #103-382). The report contains both a specific program for cultural partnerships for at-risk youth as well as funding for other arts education projects, marking a substantial role for the arts in education reform. A description of these provisions follows:
Cultural Partnerships for At-Risk Children and Youth

The conference report preserved the common goals and programs of the legislation, including bringing cultural services to at-risk children and youth and providing them with cultural activities to foster smooth transitions between school levels or to job training or higher education. Activities that will be funded include stipends to allow cultural residencies in schools, cultural programs that encourage parental participation, and programs that use the arts and culture to reform current school practices, such as lengthening the school day or academic year.

The legislation targets organizations, schools and programs which serve out-of-school children and at-risk youth of disadvantages resulting from "teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school."

The conference report called for an interagency partnership between the Secretary of Education, the Chairman of the NEA, the Chairman of the NEH, the Director of the IMS or their designees and calls on the partnership to establish criteria and procedures for awarding grants -- including establishing grant review panels. The program is allocated $45 million for FY '95 and such sums as may be necessary for the four succeeding years. An eligible entity can apply for a planning grant not to exceed $50,000, with the federal share to comprise 80 percent of the cost of carrying out the related activities. The legislation includes a nonduplication clause, so that grants awarded by the Secretary of Education will not duplicate grants and services provided by the NEA, NEH and IMS.

Arts Education Research and Projects

Also included in an "Arts in Education" subsection of the conference report is funding for arts education initiatives. These include the following: research on arts education; development of model arts education programs as well as arts education assessments based on high standards; development of curriculum frameworks for arts education; model professional development programs for arts educators and other instructional staff; collaborative activities with federal agencies or institutions involved in arts education, such as the NEA, IMS, Kennedy Center for the Performing Arts, Very Special Arts and the National Gallery of Art; model projects and programs in the performing arts at the Kennedy Center; model projects through Very Special Arts which assure the participation of individuals with disabilities in mainstream settings of arts and education programs; and model projects and programs to integrate arts education into the regular school curriculum.

The legislation authorizes $11 million for FY '95 and such sums as necessary for the four succeeding years. If the amount appropriated for any fiscal year is $9 million or less, only the model projects at the Kennedy Center and through Very Special Arts would be funded. Otherwise, those receiving funds are directed to coordinate, where possible, with public and private cultural agencies, institutions and organizations -- including museums, arts education associations, libraries and theatres. The Secretary of Education is also directed to coordinate with the NEA, IMS, Kennedy Center, Very Special Arts and National Gallery of Art.
Goals 2000: Educate America Act

BACKGROUND: The "Goals 2000: Educate America Act" -- introduced by Rep. Dale Kildee (D-MI) in the House (HR 1804) and the companion legislation (S 1150) in the Senate by Sen. Edward Kennedy (D-MA) -- establishes broad national education goals, including the arts. The bill sets voluntary national education standards for students and school performance and authorizes $427 million in FY '94 for states to reform elementary and secondary education. Including the arts as a subject goal for students to receive competency is expected to have a significant impact on arts education in public schools nationally.

Goals 2000 specifies seven national education goals for the year 2000, including a 90 percent high school graduation rate and competency in grades 4, 8, and 12 in English, mathematics, science, foreign language, civics and government, arts, history and geography. The bill also establishes a National Education Goals panel to report on the nation's progress in meeting these goals.

In addition, cultural organizations were added to the list of state and local groups to be included in education improvement efforts within HR 1804. The bill includes cultural institutions as entities to be considered under state plans to involve community groups "in helping all students to meet the challenging state standards." Cultural institutions were also included as entities to be targeted in developing partnerships among preschools as well as among elementary and secondary institutions in developing methods of implementing system-wide reforms. The Senate bill includes cultural institutions in the same manner.

There were some differences in the House and Senate bills. However, with regard to reform provisions, the two bills were reasonably similar. The House bill passed, amended, on October 13, 1993, by a vote of 307-118, and the Senate bill passed on February 8, 1994, by a vote of 71-25.

OUTCOME: The President signed the bill into law on March 31, 1994 (PL# 103-227). The Senate, on March 26, 1994, passed the conference report (H. Rept# 103-446) to the "Goals 2000: Educate America Act" (HR 1804) by a vote of 63-22. The House had approved the conference report by a vote of 307-121 on March 23, 1994.

* * * * *

THE ARTS AND SOCIAL ISSUES

The Arts and Prevention Programs in the Crime Bill

BACKGROUND: The House Crime and Criminal Justice Subcommittee (Charles Schumer, D-NY, Chairman) reported a crime prevention bill (HR 4092) on March 11, 1994 which contained references to the arts in preventative programs -- particularly those designed for youth. The Senate Omnibus Crime Bill (S 1607), which was attached to the original House crime initiative (HR 3355) as an amendment in the nature of a substitute on November 19, 1993, also contained references to the arts in programs to counter gangs as well as within "Child-Centered Activities."
The House crime bill referred to the arts in extracurricular and academic programs under "Ounce of Prevention Grant Programs" as well as within the curriculum for at-risk youth attending "Community Youth Academies." Arts organizations, programs and partnerships were potentially eligible for grants under some of the broad prevention grant initiatives aimed at after-school and other school-based activities, community programs, outreach programs for at-risk youth, as well as other "innovative programs" to discourage involvement in crime. The Senate Omnibus Crime Bill (S 1607) also contained references to the arts in programs to counter gangs as well as within "Child-Centered Activities." It also appeared that arts programs could be eligible for funding under grants for initiatives such as safe schools, police partnerships for children, and other programs.

In a statement on the House floor on March 23, Rep. Schumer (D-NY) specifically mentioned the arts in his description of crime prevention programs. En bloc amendments to the "Violent Crime Control and Law Enforcement Act of 1994" (HR 4092) offered by Rep. Jack Brooks (D-TX), Chairman of the House Judiciary Committee, and adopted by the House on April 21 included programs and provisions that potentially included the arts. The bill was passed by the House on the same day. Amendments included in the adopted en bloc amendments which explicitly involved the arts or could potentially fund cultural programs included the following: Gang Prevention Services for Boys and Girls; Urban Recreation and At-Risk Youth; and Community-Based Justice Grants for Local Prosecutors.

**OUTCOME:** The conference report (H. Rept. #103-711) to the "Violent Crime Control and Law Enforcement Act of 1993" (HR 3355, the "Crime Bill"), passed the Senate on August 25 and the House on August 21 and signed by the President on September 13 (PL 103-322), maintained the reference to the arts in the crime prevention grant program for youth which was contained in the earlier versions, as well as several provisions which could potentially fund cultural activities for at-risk youth. The bill was passed by the Senate (61-38) following the Senate's waiving of the Congressional Budget Act of 1974 with respect to the conference report (61-39) as well as a cloture vote (61-38). Following a House defeat (210-225) on the rule of the original conference agreement (H. Rept. #103-694) on August 11, the new conference report -- while containing most of the original agreement -- reduced the overall allocation for crime prevention programs from $8.9 billion to $6.9 billion and consolidated many of these programs. Programs which could potentially fund arts crime prevention activities within the Bill are as follows:

**Community Schools Youth Services and Supervision Grant Programs**

This program kept a reference to arts activities in the "Family and Community Endeavor Schools Grant Program" (Subtitle D within Title III -- Crime Prevention), located within the "Community Schools Youth Services and Supervision Grant Program." Funds for this program will go to community-based organizations which provide services and activities including extracurricular and academic programs that are offered after school, on holidays and weekends, as well as daily full-day programs during the summer. Examples of these extracurricular and academic programs are listed in the report as "curriculum-based supervised educational work force preparation, entrepreneurship, cultural, health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities."
Local Crime Prevention Block Grant Program

This block grant program (Subtitle B) replaced more than 10 of the prevention programs that were in the original measure -- including gang prevention. The new block grant program will fund local governments for "education, training, research, prevention, diversion, treatment, and rehabilitation programs to prevent juvenile violence, juvenile gangs, and the use and sale of illegal drugs by juveniles." While the provisions do not mention the arts specifically, they do refer to "programs that prevent young children from becoming gang involved, including the award of grants or contracts to community-based service providers that have a proven track record of providing services to children ages 5 to 18." Arts programs could potentially fall under this category.

Ounce of Prevention Grant Program

The conference report maintained the "Ounce of Prevention Grant Program" (Subtitle A) within the Crime Prevention title "for summer and after-school (including weekend and holiday) education and recreation programs" as well as "mentoring, tutoring and other programs involving participation by adult role models" in addition to other purposes. Priority will be given to applicants -- which can include private nonprofit entities -- who have a record of providing alternatives to at-risk youth. These programs could conceivably involve the arts and cultural activities.

Assistance for Delinquent and At-Risk Youth

The previous Community Youth Academies were incorporated in the "Assistance for Delinquent and At-Risk Youth" grants (Subtitle G). Under this program, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who have dropped out of school, have come into contact with the juvenile justice system, or are at-risk of dropping out of school or entering the juvenile justice system. Services offered within the program should be designed to "increase the self-esteem of such youth" and "improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends . . . ." Since the arts were previously referenced in these programs and have proven success in these areas, it is possible that the arts can fall within the activities targeted by the grants.

Urban Recreation and At-Risk Youth

This program, which amends the Urban Park and Recreation Act of 1978, seeks to deter crime by expanding recreation opportunities for at-risk youth in areas of high crime. Originally introduced by Rep. George Miller (D-CA) as free-standing legislation (HR 4034) (subsequently passed by the House under suspension on March 21 and then incorporated into the Crime Bill), the program has been allocated only $220 million of the $750 million authorized in 1978. The program will provide competitive matching grants to cities and urban counties to help them rehabilitate recreation facilities and establish innovative recreation programs. Priorities for funding include "programs which teach important values and life skills, including teamwork, respect, leadership and self-esteem" as well as
"programs which offer services during late night or other nonschool hours." Rep. Miller's office previously indicated that these recreation programs can include arts and cultural programs.

**Community-Based Justice Grants for Prosecutors**

Originally offered by Rep. Joseph Kennedy (D-MA) and included in en bloc amendments to the House Crime Bill, the Community-Based Justice Grants for Prosecutors section (Subtitle Q) authorizes the Attorney General to make grants to local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs. Grants under the amendment are to be used "to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders." Many of these cooperative programs already exist in the arts -- some of which are currently funded by the NEA. [Please contact Joel at the Arts Caucus, x62456, for examples of these programs.]

The grants would fund "programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods, treatment, counselling, educational, and recreational programs that create alternatives to criminal activity." Rep. Kennedy's office has previously indicated that cultural programs and groups could be part of these violence prevention activities and grants.

**Funding Levels of Related Programs**

(in millions of dollars)

<table>
<thead>
<tr>
<th>Program</th>
<th>Conf. Rept.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Total Prevention Programs)</td>
<td>$6,903.00</td>
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<tr>
<td>Family and Community Endeavor Schools</td>
<td>243.00</td>
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<tr>
<td>Local Crime Prevention Block Grant</td>
<td>377.00</td>
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<tr>
<td>Ounce of Prevention Grants</td>
<td>90.00</td>
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<tr>
<td>Assistance for Delinquent &amp; At-Risk Youth</td>
<td>36.00</td>
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<td>Urban Recreation &amp; At-Risk Youth</td>
<td>45.00</td>
</tr>
<tr>
<td>Community-Based Justice Grants for Prosecutors</td>
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</tbody>
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**BROADCASTING AND COMMUNICATIONS**

**Public Broadcasting Appropriations:**

**BACKGROUND:** The Corporation for Public Broadcasting (CPB) is a private, nonprofit corporation which provides funding for public television and radio stations. CPB supports independent producers in creating noncommercial programming locally and nationwide. CPB
is appropriated two years in advance to promote orderly program development and discourage political interference and pressure.

CPB funding is included within the Labor-HHS-Education Appropriations Bill (HR 4606). For FY '97, the House deferred action because the House Telecommunications Subcommittee (Edward J. Markey, D-MA, Chairman) had not yet considered reauthorization. The Labor-HHS-Education Appropriations Subcommittee (Neal Smith, D-IA, Chairman) did, however, report the bill on with a $20.1 million rescission for FY '95 CPB funding -- bringing the previously allocated FY '95 level from $292.64 million to $272.540 million. An amendment was then introduced by Rep. Joel Hefley (R-CO) seeking an increase of the rescission by $1 million so that the total rescission would be $21.1 million. Rep. Hefley stated that the $1 million is roughly equal to what Pacifica Radio Network receives, a program that, according to Rep. Hefley, has demonstrated "a consistent pattern of hate-programming I don't believe any Member can justify paying for with our tax dollars." The amendment was passed by voice vote, bringing the FY '95 House level to $271.54 million. During floor debate on June 28, Rep. Phil Crane (R-IL) introduced an amendment seeking to eliminate all FY '95 funding for CPB. The amendment was defeated by a vote of 384-82.

The Senate Labor-HHS-Education Appropriations Subcommittee (Tom Harkin, D-IA, Chairman) reported the bill with a $330 million figure and no rescission. Sen. John McCain (R-AZ) introduced an amendment on August 5th to transfer $37.4 million from CPB to AIDS research. "This is simply a matter of priorities ... The CPB may have served a need when it was created in 1969 ... But times have changed, needs have changed, and our priorities must change with them," he said. The amendment failed by a vote of 68-26.

**OUTCOME:** The conference report allocated $315 million for FY '97, and included a $7 million rescission for CPB's FY '95 funding, bringing it to $285.6 million. The conference report (H. Rept. 103-733) passed the House on September 22, the Senate on September 27, and was signed by President Clinton on September 27 (PL# 103-333).

The following table contains funding levels for FY '95 and FY '97 (in millions of dollars):

<table>
<thead>
<tr>
<th></th>
<th>FY '95</th>
<th>FY '97</th>
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</thead>
<tbody>
<tr>
<td>(Previously Allocated)</td>
<td>$292.6</td>
<td></td>
</tr>
<tr>
<td>Pres. Request</td>
<td>$292.6</td>
<td>$292.6</td>
</tr>
<tr>
<td>Senate</td>
<td>$292.6</td>
<td>$330</td>
</tr>
<tr>
<td>House (Including $21.1 million rescission)</td>
<td>$271.5</td>
<td>Deferred Action</td>
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<tr>
<td>Conf. Rep. (Includes $7 million rescission)</td>
<td>$285.6</td>
<td>$315</td>
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**Note:** The appropriation for CPB for FY '96, passed in FY '94, is $312 million.
Information Superhighway

BACKGROUND: An "Information Superhighway" is a system of telecommunications pathways and connections that transmits and receives voice, video, and data. The pathways consist of copper wire, fiber optic cable, coaxial cable, microwave signals, and satellite linkages, but has been expanded to include broadband telecommunications circuits increasingly based on fiber optic technology, which can carry much greater amounts of digitized information at faster speeds. People connect to these highways through telephones, computers, and audio/visual receivers. Arts and cultural organizations -- which include museums, art galleries, libraries, schools and other non-profit organizations -- have sought access to the Information Superhighway through legislation. Some applications of this access could be ticket sales to arts events, bulletin boards promoting upcoming events, and direct access to area schools for increased arts in education outreach.

Because President Clinton and Congress were actively trying to advance the Information Superhighway, many people felt that this was to become a monumental year in its growth. The Clinton Administration has made the development of a National Information Infrastructure (NII) a top priority of its technology/economic development policy. The Administration has formed a task force of sub-cabinet level officials to articulate regulatory, information and application policies intended to accelerate the establishment of the NII. The NII, in short, encompasses an integrated web of telecommunications, information, and computing technologies. The broad vision of the NII is to connect businesses, governments, researchers, educators, and the public with advanced communication and information resources.

Congress introduced legislation which seeks to remove regulatory barriers and encourage competition within the telecommunication marketplace in order to promote development of an advanced communications network. The following is legislation that was introduced to help nurture the Information Superhighway:

Senate: The Communications Act (S 1822), introduced by Sen. Ernest Hollings (D-SC), was the most comprehensive rewrite of communications legislation since its original passage in 1934. The major provisions of the bill were: to promote and protect the public interest and universal telephone service; promote private sector investment in the nation’s telecommunications infrastructure; promote regulatory parity among providers of similar services; and to enhance the nation’s international competitiveness. An important aspect of this legislation was the incorporation of the "National Public Telecommunications Infrastructure Act of 1994" (S 2195) into the larger S 1822. S 2195, introduced by Sen. Daniel Inouye (D-HI), reserved telecommunications capacity for non-commercial use, including state and local governments, cultural and educational institutions and libraries. This is significant for arts and cultural organizations because these organizations could bypass possible economic barriers that might otherwise have kept them from being connected to the NII.

House: The Antitrust Reform Act (HR 3626), introduced by Rep. John Dingell (D-MI), was the House’s major telecommunications legislation. It incorporated major provisions of the "National Communications Competition and Information Infrastructure Act of 1994" (HR 3636). HR 3626 was a compromise bill between the House Energy and Commerce Committee (John Dingell, D-MI, Chairman) and the House Judiciary Committee (Jack Brooks, D-TX, Chairman). In
summary, the legislation sought to address key market structure issues resulting from the break up of AT&T and the rulings by both the courts and the federal regulatory bodies. Specifically, it allowed the Bell companies to enter the long distance and manufacturing businesses and sets new rules for their participation in information services, paving the way for the Information Superhighway.

OUTCOME: On September 23, Sen. Hollings announced that he would give up trying to pass S 1822, saying that there was not enough time left in the 103rd Congress to overcome its opponents, both in and out of the Senate: "I reluctantly announce today that we will be unable to pass comprehensive telecommunications reform legislation in this Congress. We will not be held hostage at the last minute to ultimatums and to the desires of certain parties to substantially rewrite a bill that passed the Committee by an overwhelming and bipartisan vote," he stated. The bill's supporters have pledged to reintroduce legislation in the next Congress. In the House, however, HR 3626 passed, amended, with overwhelming support by a vote of 423-4 on June 28. HR 3636 also passed on June 28, and its major provisions were incorporated into HR 3626.

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TRADE

Treatment of Cultural Properties in GATT

BACKGROUND: Negotiations on the "Uruguay Round" of the General Agreement on Tariffs and Trade (GATT) -- multilateral trade discussions to promote freer trade among member countries -- included commerce in cultural products such as film, television, home videos, and sound recordings. The cultural industries have asserted that American cultural products, tremendously popular throughout the world, contribute billions of dollars in surplus to the American balance of trade but are targeted for exclusion by other nations.

The cultural industries were specifically concerned about two aspects of GATT, the first being European television quotas which arose from the European Broadcast Directive adopted by the European Community (EC) in October 1989. This directive insists that "a majority proportion of transmission time" be reserved for EC works (excluding sports, news, games, and advertisements). These quotas fall within the Services Sector of GATT. With France going beyond the directive to mandate that 60 percent of air time on French television stations must be of French or EC origin, the motion picture industry was highly concerned that America will be effectively shut out of this marketplace. Moreover, the EC and France in particular had sought to include the entire Services Sector as part of an audio visual exemption with no GATT protection, which would allow EC nations to put in place any restrictions they desire.

The second area of concern was the Trade-Related Aspects of Intellectual Property Rights (TRIPS), the goal being to develop better international standards for the protection of intellectual property rights -- including those in motion pictures, recordings, television programs, books and computer software. The cultural industries insisted that American copyright owners be afforded "national treatment," that is, given the same rights and privileges enjoyed by the copyright owners of participating nations.
More than 225 House Members -- including Majority Leader Richard Gephardt (D-MO), original cosponsor Caucus Chair Slaughter (D-NY), and numerous other Arts Caucus Members -- cosponsored a resolution (H Res. 165) calling on the U.S. Trade Representative to insist that any GATT agreement provide U.S. copyright-based industries with fair and equal access to markets of GATT nations as well as adequate and effective copyright protection. A companion resolution (S Res. 128) was introduced by Sen. Frank Lautenberg (D-NJ), Caucus Vice Chair Sen. James Jeffords (R-VT) and other Arts Caucus Members.

The GATT negotiations were completed on December 15, 1993. While the U.S. pressed strongly for a loosening of the broadcasting directive, ultimately, cultural properties were exempted from full national treatment. The International Intellectual Property Alliance (IIPA), however, has stated that other intellectual property provisions in the TRIPS chapter of the agreement "will be instrumental in reducing the $15-$17 billion in annual losses the copyright industries suffer from piracy abroad." In addition, the Recording Industry Association of America (RIAA) has stated that GATT contains the following benefits: 1) All GATT Members are required to protect sound recordings for at least 50 years, including protection in 60 countries for the first time; 2) performers will have the ability to prohibit bootlegging of their performances, creating protection for U.S. performers for the first time in virtually every country; 3) record producers will have the exclusive right to prohibit rental; and 4) record producers will have the legal means to require enforcement against piracy.

**Implementing Legislation**

The Administration's GATT implementation legislation was introduced in the Senate (S 2467) by Senate Majority Leader George Mitchell (D-ME) and in the House (HR 5110) by Majority Leader Gephardt on September 27. The IIPA expressed its support for the legislation, particularly the inclusion of the following: acceleration of compliance by developing countries with their TRIPS obligations and urging that they not take advantage of the four year transition period; clarifying that the new standard of "adequate and effective" protection contained in the agreement is not met by a country merely joining TRIPS; clarifying that the President has the authority to retaliate in areas beyond trade matters, such as denying aid or other financial benefits to offending nations; and a federal antibootlegging provision protecting against the unauthorized fixation of live performances.

**OUTCOME:** The legislation was considered under fast track approval -- by which it was not subject to amendment -- and passed by the House on November 29 and by the Senate on December 1 and awaits the President’s signature.

**BUDGET RECONCILIATION**

The conference report to the Omnibus Budget Reconciliation Act (HR 2264), signed by President Clinton on August 10, 1993 (PL 103-66), contained several key provisions affecting the cultural community, as follows:
Cultural Components of the Omnibus Budget Reconciliation Act

1) Gifts of Appreciated Property

**BACKGROUND:** Prior to the 1986 Tax Reform Act, donors of appreciated property to nonprofit organizations -- including museums and cultural organizations of every sort -- were allowed to deduct the fair market value of donated property, including those calculated under the Alternative Minimum Tax (AMT). After 1986, these gifts were treated as a preference item under the AMT, with only the original cost of the property being an allowable deduction. A series of temporary extensions were enacted, the most recent allowing the full market value deduction until July 1, 1992. The Clinton Administration had proposed restoring the full deduction in its economic plan.

**OUTCOME:** The conference report to the Omnibus Budget Reconciliation Act removed gifts of appreciated property to nonprofit organizations as a preference item under the AMT, permanently allowing the full market value for these donations. The provision was retroactive to July 1, 1992 for tangible property (such as artwork and manuscripts) and to January 1, 1993 for intangible property (such as real estate, stocks and bonds). The change is expected to have an enormous impact on donations to nonprofit cultural groups and institutions.

The Budget Act included a substantiation requirement whereby donors to nonprofit organizations wishing to deduct a contribution larger than $250 would need to obtain verification from the organization, with the onus on the donor -- a canceled check would be insufficient. In addition, a disclosure requirement directed nonprofit organizations that receive a quid pro quo contribution of more than $750 to inform the donor of the value of the deductible portion. These requirements took effect on January 1, 1994.

2) Permanent Three Percent Floor on Itemized Deductions

The conference agreement on the Budget Reconciliation Act made permanent a three percent floor under itemized deductions -- including charitable deductions to cultural institutions -- which was previously enacted in the 1990 budget agreement and due to expire in 1994. Taxpayers with incomes of $108,000 or more are currently subject to the floor -- the threshold beyond which a taxpayer's itemized deductions are taxable.

Representatives of cultural organizations argued that the floor placed a special burden on charitable contributions. While deductions for state and local taxes, mortgage interest and charitable deductions are covered by the floor, arts groups asserted that taxpayers can realistically only adjust -- or reduce -- their charitable giving to compensate for the increased tax. According to the American Arts Alliance, an estimated $700 million will no longer be deducted by contributors to nonprofit organizations due to the floor.

3) Reduction in Business Entertainment Deduction from 80 to 50 Percent

Included in the Budget Reconciliation conference report was a reduction -- which had been recommended in President Clinton's economic plan -- in the tax deduction for business and
entertainment expenses from 80 to 50 percent. These entertainment expenses directly affect spending on cultural performances. The League of American Theatres and Producers, Inc. has stated that "the result would be an additional blow to the already fragile economic condition of the Broadway Theatre and the performing arts." A representative of the League testified before the House Ways and Means Committee (Dan Rostenkowski, D-IL, Chairman) in March 1993 and urged that the change would result in a weekly box office loss of 6 percent, which, according to the League, could close many shows on Broadway and affect thousands of jobs.

Kasich-Penny Budget Cuts

BACKGROUND: On August 10, President Clinton signed the Omnibus Budget Reconciliation Act of 1993 (PL# 103-66) into law. Though the Budget bill projected cuts of almost $500 billion over five years, President Clinton offered some undecided Members of Congress at the time the opportunity to add rescissions to the budget later in the legislative year. On November 23, 1993, Reps. Timothy Penny (D-MN) and John Kasich (R-OH) offered such a package in the form of an amendment to "The Government Reform and Savings Act of 1993" (HR 3400), introduced by Majority Leader Rep. Richard Gephardt (D-MO).

The amendment proposed cutting $103 billion in federal spending over the next five years from a wide range of discretionary, mandatory, and personnel funds. The proposal incorporated an across-the-board 10-percent reduction over 5 years for spending in the arts and humanities, including federal funding for the National Endowments for the Arts (NEA) and Humanities (NEH), the Smithsonian Institution, the National Gallery of Art, and the Corporation for Public Broadcasting. Funding would be reduced by 2 percent each year from FY '94 through FY '98. A hearing was held before the House Budget Committee (Martin Sabo, D-MN, Chairman) on November 10, 1993 at which Reps. Kasich and Penny defended the amendment, noting the "modesty" of the arts and humanities cuts. Sen. Robert Kerrey (D-NE) was expected to offer companion legislation to the Kasich-Penny amendment in the Senate in the form of an amendment to President Clinton's budget rescission bill (S 1608), but this did not occur last session. The proposal would offer 76 specific cuts to the budget, including cuts in the arts and humanities identical to Kasich-Penny.

OUTCOME: On November 22, 1993, the House voted to reject the Kasich-Penny amendment 213-219 and instead agreed to a more modest budget rescission package without arts cuts proposed by House Budget Committee Chair Martin Sabo (D-MN).

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MUSEUMS

The National Air and Space Museum's "Enola Gay" Exhibit

BACKGROUND: The Smithsonian's National Air and Space Museum has planned an exhibit entitled "The Final Act: The Atomic Bomb and the End of World War II." The presentation will feature the front 56 feet of the Enola Gay's fuselage -- the plane that dropped the first bomb on Hiroshima, Japan -- among other items such as photographs and speeches. Although the exhibit is not scheduled to open until May 1995, it has been the subject of controversy since the original working draft, prepared in January 1994, was made public. Responding to the growing criticism,
the original exhibit has been overhauled by the Museum's curators and directors. Most of the criticism came from veteran's groups -- such as the American Legion -- military historians, and Members of Congress. These groups felt that the original exhibit was too one-sided, lacked balance and context, and portrayed the Americans as the aggressors and the Japanese as the victims. The original exhibit contained five sections/parts: the Pacific War in the summer of 1945, the decision to develop and use atomic bombs, the two missions, the effects of the bombing on the cities of Hiroshima and Nagasaki, and the legacy of the bombings.

OUTCOME: Due to the mounting protests, the Smithsonian and a specially appointed advisory committee -- including additional scholars, military historians, and representatives of veteran's groups -- began to meet to discuss what changes could be made. Some of the major changes made were as follows: the exhibit will no longer include a long section on the postwar nuclear race that veterans groups and Members of Congress had criticized; items that critics said dwelt to excess on the effects of the atomic bomb have been omitted; the estimate of how many casualties that might have resulted if the bombs had not been used were revised; a new section at the beginning of the exhibit on the history of the war in the Pacific before the bombing has been added; and other minor changes, such as photographs, were added and omitted. Meetings between Smithsonian officials and members of the American Legion are continuing.

The African-American Museum

BACKGROUND: The Smithsonian, which is funded within the Department of the Interior, has set aside $475,000 from its FY '94 appropriation for a National African American Museum (NAAMP). Although the original legislation was introduced in 1992, scholars and museum professionals have participated in planning since the mid 1980's. The Museum's purpose will be to interpret and document the full range and magnitude of experiences of people of African American decent in the United States and throughout the diaspora. Legislation supporting the establishment of such a Museum (HR 877 and S 277) was reintroduced in the 103rd Congress by Rep. John Lewis (D-GA) and Sen. Paul Simon (D-IL). These bills proposed that the NAAMP be housed in the Smithsonian's Arts and Industries building. The legislation passed the Senate, but failed in the House Public Works and Transportation Committee (Norman Y. Mineta, D-CA, Chairman).

Sen. Jesse Helms (R-NC) expressed opposition to the legislation, saying that the proposed Museum would cost too much money, already duplicates other museums, and would serve as a launching ground for other ethnic groups who want their own museums. During debate on the Senate floor on October 6, Sen. Helms said, "With a $4.6 trillion federal debt, Congress is now being asked to . . . give an unlimited authorization for an unlimited number of years for a new museum where the Smithsonian, by the way, does not have sufficient funds to maintain the exhibits it currently has . . . The proposed museum duplicates, do you not see, other museums and exhibits currently in the Smithsonian." Sen. McCain (R-AZ), an original co-sponsor of the bill, said, "I would not want anyone to believe that any individual in this body would be opposed to this very simple, much needed, and frankly inexpensive piece of legislation which will serve, I think, a very important purpose for the millions of people who come here every year to receive the kind of understanding and appreciation of the background of African Americans in this country."
OUTCOME: The bill passed the House on June 29 by voice vote, but was held up in the Senate due to ongoing debate between the supporters of the bill and Sen. Helms. Rep. Lewis and Sen. Simon have promised to reintroduce legislation again in the next Congress. Sen. Helms, during floor debate, stated his intention to attach close to 15 amendments to the bill.

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MISCELLANEOUS

The Ticket Fee Disclosure Act of 1994

BACKGROUND: In 1990, Ticketron, a ticket distributor, approached Ticketmaster, its former competitor, as a prospective buyer. The Justice Department approved the buy-out which, critics have charged, created a monopoly. A hearing was held on June 30 before the House Information, Justice, Transportation and Agriculture Subcommittee (Gary Condit, D-CA, Chairman) regarding the ticketing industry and its practices. Members of rock band Pearl Jam, among others, testified that Ticketmaster has a monopoly on ticket distribution which, Pearl Jam claims, makes it virtually impossible to put on a concert without their services. Pearl Jam has filed a complaint with the Justice Department requesting that they reevaluate their decision.

In response to the controversy, Reps. John Dingell (D-MI) and Gary Condit (D-CA) introduced the "Ticket Fee Disclosure Act of 1994" (HR 4995) on August 19, amid growing complaints by various groups. The bill would require ticket distributors to identify handling and service charges for tickets to entertainment events.

Ticketmaster denies allegations that it has a monopoly over ticket distribution. Fred Rosen, CEO, claims that in 1993 there were approximately 1.5 billion tickets for entertainment events sold in the United States -- with less than two percent of those tickets sold by Ticketmaster. Therefore, he says, these assertions are false.

On September 29, a hearing on the bill was held by the House Transportation and Hazardous Waste Subcommittee (Al Swift, D-WA, Chairman). The testimony of the witnesses centered on how the proposed legislation would affect consumers. Representatives of Ticketmaster, the Federal Trade Commission, and a consumer advocacy group provided their views as to how the bill would affect the consumer.

OUTCOME: HR 4995 was not voted on before the end of the 103rd Congress. However, Rep. Dingell has pledged to reintroduce the legislation and anticipates hearings in the next Congress. Also, the Justice Department's investigation of Ticketmaster is still in progress.

Postal Revenue Foregone Reform

BACKGROUND: Congress had provided "revenue forgone" appropriations annually to compensate the United States Postal Service (USPS) for the difference between the nonprofit mailers reduced rates and the standard general cost. These subsidies enabled nonprofit organizations to disseminate information to the public regarding a broad spectrum of issues and encompassing a wide geographic area.
In response to the growing budget deficit, Congress in recent years appropriated subsidies to the USPS which were substantially lower than the monies the USPS lost in offering nonprofits special rates. The "shortfall" created by this difference -- almost $1 billion total in FY '93 -- could only be met by increasing USPS rates for all mailers.

Last year, U.S. Postmaster General Marvin Runyon and House Treasury-Postal Appropriations Subcommittee Chairman Steny Hoyer (D-MD) agreed that, in order to end this annual shortfall, revenue foregone postal subsidy procedures had to be significantly reformed. Chairman Hoyer supported a proposal to "split the pain of transitional costs, reduce eligibility for preferred rate mail and permanently reduce the need for large revenue forgone outlays from the Committee." Mr. Runyon called for either full-funding of the reduced postal rate appropriations, a specific reform of subsidy eligibility, or a complete striking of the subsidy altogether.

In a May 13 mark-up of the Omnibus Budget Reconciliation Act (HR 2264) before the House Committee on Post Office and Civil Service (William Clay, D-MO, Chair), Rep. Clay crafted a compromise which increased third-class rates for nonprofits by approximately 4 percent, second-class rates 2 percent, and imposed new restrictions on advertising in preferred rate mail. The bill also froze third-class flat size piece surcharges at the current level.

The reform measures were first integrated into the Omnibus Budget Reconciliation Act (PL# 103-66). The conference on the Omnibus Budget Reconciliation Act, however, removed nonprofit mail reform from the bill. The reform was instead included in the Treasury-Postal Appropriations Bill (HR 2403) which passed the House on September 29, 1993 and the Senate on October 26, 1993 remaining mostly unchanged in the form of the Clay Compromise.

**OUTCOME:** President Clinton signed the Conference Report to the Treasury-Postal Service-General Government Appropriations Bill (PL #103-123), incorporating nonprofit mail reform measures, on October 28, 1993.

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For further information on these or other arts legislative issues, please contact Joel Flatow or Alan Einisman at the Arts Caucus, x62456.
Of the nearly 9,800 bills introduced in the 103rd Congress, more than 525 bills relate to the arts, including individual artists, nonprofit organizations, broadcasting, education, historic preservation, and copyright. The following is a sampling by subject matter of these bills:

PUBLIC LAWS AFFECTING THE ARTS

Public Law Number

103-49  Provide authority for the President to enter into trade agreements (including those affecting the copyright industries) to conclude the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT), to extend tariff proclamation authority to carry out such agreements, and to apply Congressional "fast-track" procedures to a bill implementing such agreements, signed July 2, 1993.


103-57  Authorize the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport, signed August 3, 1993.

103-101 Authorize appropriations for the American Folklife Center for FY '94 and FY '95, signed October 12, 1993.


103-227 "Goals 2000: Educate America Act" to improve learning and teaching by providing a national framework for education reform (including arts as a national education goal), signed March 31, 1994.

103-236 Authorize appropriations for the Department of State, United States Information Agency (including cultural exchange and international arts programs) and related agencies, signed April 30, 1994.


103-279 Amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center of Performing Arts, signed July 21, 1994.

103-322 Amend the Omnibus Crime and Control Act of 1968 to allow grants to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and to enhance public safety (including arts-related prevention provisions), signed September 13, 1994.

103-332 Make appropriation for the Department of the Interior (including the federal arts agencies) for FY '95, signed September 30, 1994.

103-333 Make appropriation for the Departments of Labor, Health and Human Services, and Education (including the Corporation for Public Broadcasting) and related agencies for FY '95, signed October 4, 1994.
PENDING BILLS AFFECTING THE ARTS

Telecommunications/Broadcasting

HR 707  "Emerging Telecommunications Act of 1993."

HR 1987  Prohibit pay-per-view charges for entertainment events that receive public financial support.

HR 2639  Authorize appropriations for the promotion and development of the United States national telecommunications and information infrastructure, and the construction and planning of public broadcasting facilities.


HR 3785/ S 1823  Provide for the establishment of the Interactive Entertainment Rating Commission.

S 1822  Foster the further development of the nation’s telecommunications infrastructure and protection of the public interest.

S 1853  Extend federal assistance programs related to educational television programming.

H Res 189  Resolution honoring cultural achievements of the Voice of America.

Television Violence

HR 2159/ S 973  Require the FCC to evaluate and publicly report on the violence contained in television programs.

HR 2756  Require the Federal Communications Commission (FCC) to establish a toll free telephone number for the collection of complaints concerning violence on broadcast and cable television.

HR 2837  Require the FCC to establish standards to reduce the amount of violence from broadcast television and radio.

HR 2888/ S 1811  Require new television sets to have built-in circuitry to allow viewers to block the display of programs rated violent.

S 943  Protect children from the physical and mental harm resulting from violence contained in television programs.

S 1556  Require commercial television stations to maintain, and provide copies of, commercials and program promotions.

Historic Preservation

HR 803  Establish the Hudson River Artists National Historic Park in the state of New York.

HR 2416  Provide for the preservation, interpretation, development and beneficial use of natural, cultural and scenic resources that are a source of values important to the people of the United States through a national partnership system of heritage areas.

HR 2921  Authorize appropriations for the preservation and restoration of historically black colleges and universities.

HR 3409/ S 1586  Establish the New Orleans Jazz National Historical Park in the state of Louisiana.
Establish the Lower East Side Tenement Museum National Historic Site.

Establish the American Heritage Areas Partnership Program.

Authorize the Secretary of the Interior to formulate a program for the research, interpretation and preservation of various aspects of colonial New Mexico history.

Establish the New Orleans Jazz National Historical Park in the State of Louisiana.

Designate the 10-year period beginning Jan. 1, 1994 as the National Decade of Historic Preservation.

Copyright

Provide an exclusive right to perform sound recordings publicly by means of digital transmissions.

Establish copyright arbitration panels to replace the Copyright Royalty Tribunal.

Create an exception from copyright infringement for certain performances in places of public accommodation.

Provide for the establishment of a foreign assistance program to support efforts by other countries to protect intellectual property rights.

Prohibit unauthorized fixation of sound recordings and music videos of live musical performances and provide copyright protection in restored works.

Exempt business establishments from copyright fees for the public performance of nondramatic musical works by television and radio sets, to exempt choral groups from paying copyright fees, to provide for court-annexed arbitration in royalty disputes involving performing rights societies, and to ensure access to musical repertoire.

Encourage beneficiary developing countries to provide adequate protection of intellectual property rights.

Provide for the auction of certain copyrights to financially support the National Endowment for the Arts and the National Endowment for the Humanities.

Taxes

Relating to the tariff treatment of paintings imported for the use of any public library or any nonprofit institution established for educational, scientific, literary or philosophical purposes, or for the encouragement of fine arts.

Relating to the tariff treatment of theatrical, ballet, and operatic scenery, properties, and sets.

Repeal the reduction in the deductible portion of business meals and entertainment made by the Revenue Reconciliation Act of 1993.

Amend the Internal Revenue Code of 1986 to allow individuals who do not itemize their deductions a deduction for a portion of their charitable contributions.

Expressing the sense of Congress that any limitation under federal tax law on the deductibility of compensation exceeding $1 million paid to executives individually should be expanded to apply to compensation paid to entertainers and athletes.
Museums and Nonprofit Organizations

HR 877/ S 277
Authorize the establishment of the National African-American Museum within the Smithsonian Institution.

HR 2677
Authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History Building.

HR 3578
Authorize appropriations for the California Afro-American Museum.

S 1112
Grant a federal charter to the Congressional Medal of Honor Museum of the United States.

S 1726
Provide for competition to select the architectural plans for a museum to be built on the East Saint Louis portion of the Jefferson National Expansion Memorial.

S 2226
Designate a site for the relocation of the public facility of the National Museum of Health and Medicine.

Music

S 481
Amend the National Labor Relations Act to give employers and performers in the live performing arts the same rights given by section 8(f) of the Act to employers and employees in the construction industry.

HJ Res 297/ SJ Res 157
Designate 1994 as "The Year of Gospel Music."

HJ Res 380
Designate the year 1995 as "Jazz Centennial Year."

Education

HR 488
Establish an annual essay contest for high school seniors in the United States.

HR 520/ S 96
Establish a program of grants for the provision of coordinated educational support services for at-risk youth.

HR 2933
Amend the Elementary and Secondary Education Act of 1965 to improve arts education.

HR 4034
Authorize grants for the expansion of recreation opportunities (including arts programs) for at-risk youth in urban areas with a high prevalence of crime.

S 286
Reauthorize funding for the Office of Educational Research and Improvement to provide for miscellaneous education improvement programs.

S 1497
Facilitate the development on an integrated nationwide telecommunications system dedicated to instruction.

Miscellaneous

HR 2351/ S 1218
Authorize funds for FY '94 and '95 for programs of the National Foundation on the Arts and Humanities Act and Museum Services Act.

HR 3488
Amend the National Foundation on the Arts and Humanities Act of 1965 to limit the distribution of funds to the National Endowment for the Arts.

HR 4995
Require the disclosure of service and other charges on tickets, and for other purposes.
Nominations, Confirmations and Appointments

Federal Arts Agencies:

NEA: Jane Alexander, confirmed by the Senate on September 29, 1993, received bipartisan support for her artistic commitment, experience as a performer, and dedication to bringing the arts to children and communities around the nation.

NEH: Dr. Sheldon Hackney, former President of the University of Pennsylvania, emphasized the need to begin national dialogue on the humanities and the basic philosophical questions of our day. Dr. Hackney was confirmed by the Senate on August 3, 1993.

IMS: Diane Frankel, founding director of the Bay Area Discovery Museum, emphasized the positive educational role of museums. Ms. Frankel was confirmed by the Senate on September 29, 1993.

National Council on the Arts:

The Senate confirmed the following people to serve for terms expiring on September 3, 1998:

- Leo J. Donovan, of the District of Columbia
- Ira R. Feldman, of New York
- Barbara Wallace Grossman, of Massachusetts
- Patricia Ann Brown, of New York
- Rachel Worby, of West Virginia
- Jorge M. Perez, of Florida
- Colleen Jennings-Roggensack, of Arizona, for a term expiring September 3, 1996.

The Senate received the nomination of Kenneth Malerman Jarin, of Pennsylvania, for a term expiring September 3, 1998.

National Museum Services Board:

President Clinton sent the following names to the Senate as nominees for the Museum Services Board:

- Kinshasha Holman Conwill, of New York
  (Term Expires: 12/97)
- Charles Hummel, of Delaware
  (Term Expires: 12/94)
- Nancy Marsiglia, of Louisiana
  (Term Expires: 12/98)
- Ruth Tamura, of Hawaii
  (Term Expires: 12/96)
- Robert Breunig, of Arizona
  (Term Expires: 12/98)
- Ayse Kenmore, of California
  (Term Expires: 12/95)
- Arthur Rosenblatt, of New York
  (Term Expires: 12/97)
- Townsend Wolfe, of Arkansas
  (Term Expires: 12/95)
President's Committee on the Arts and Humanities:

(Note: This Committee is appointed by the President and not subject to Senate confirmation).

- Dr. John Brademas, of Indiana
- Peggy Cooper Cafritz, of the District of Columbia
- Cynthia Perrin Schneider, of Maryland
- Terry Semel, of California
- Susan Barnes-Gelt, of Colorado
- Lerone Bennett, Jr., of Illinois
- Madeleine Harris Berman, of Michigan
- Curt Bradbury, of Arkansas
- John H. Bryan, of Illinois
- Hilario Candela, of Florida
- Anne Cox Chambers, of Georgia
- Margaret Corbett Daley, of Illinois
- Everett Fly, of Texas
- David P. Gardner, of California
- Harvey Golub, of New Jersey
- Richard Gurin, of Pennsylvania
- Irene Y. Hirano, of California
- David Henry Hwang, of California
- William Ivey, of Tennessee
- Quincy Jones, of California
- Robert Menscel, of New York
- Rita Moreno, of New York
- Jaroslav Pelikan, of Connecticut
- Anthony Podesta, of the District of Columbia
- Phyllis Rosen, of New York
- Ann Sheffer, of Connecticut
- Isaac Stern, of New York
- Dave Warren, of New Mexico
- Shirley Wilhite, of Louisiana
- Harold Williams, of California
- Emily Malino, of the District of Columbia
- Timothy Wirth, of the District of Columbia