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11-4-1994

## Arts: Policy and Talking Points (1994): Report 02

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# CRS Report for Congress

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## Arts and Humanities: Funding and Reauthorization

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### Summary

One of the primary vehicles for Federal support for the arts and humanities is the National Foundation on the Arts and the Humanities, which includes the National Endowment for the Arts (NEA). Funding levels for the National Foundation on the Arts and the Humanities are a perennial issue in the House and Senate Appropriations Committees and the focus of that Federal support concerns the authorizing committees of Congress, which are the House Education and Labor Committee and the Senate Labor and Human Resources Committee. Recent controversial grants attributed to the NEA have called into question the level of support that Congress should approve. As a consequence of one controversial grant in particular, NEA funding was reduced in the Department of Interior and Related Agencies Appropriations Act (P.L. 103-332), a cut that was initially approved in the House and maintained in the final conference agreement. The purpose of this report is to give brief background on components of the National Foundation on the Arts and the Humanities (NFAH), to describe the status of the arts reauthorization and other arts-related legislation, and to delineate funding for FY 1994 and FY 1995 for some selected cultural programs.

### Programs

The National Foundation on the Arts and the Humanities (NFAH) provides Federal support for the arts, humanities and museums. It is composed of the National Endowment for the Arts (NEA) and its National Council on the Arts, the National Endowment for the Humanities (NEH) and its National Council on the Humanities, the Institute of Museum Services (IMS), and the Federal Council on the Arts and the Humanities. The Federal Council is an advisory body that administers the Arts and Artifacts Indemnity Act that helps museums reduce the burden of cost for commercial insurance for international art exhibitions. The Chairperson of NEA is Jane Alexander, of NEH is Sheldon Hackney and of IMS is Diane Frankel.

### Funding

Appropriations in current dollars have increased overall for NEA, NEH and IMS since their inception. However, when adjusted for inflation, both NEA and NEH funds are less than they were 10 years ago. On September 30, 1994, the FY 1995 Department of Interior Appropriations Act, H.R. 4602 was signed into law as P.L. 103-332. The bill decreased the NEA's appropriation level by 2 percent from the House committee measure (\$171.1 million) to \$167.7 million. Initial Senate passage would have cut the NEA by 5



percent, but the 2-percent cut approved by the House was retained in conference. The FY 1995 appropriations level for NEA is actually a 1.7 percent decrease from the FY 1994 level, and there are slight decreases in the figures for NEH and IMS from the FY 1994 appropriations level. The table below delineates the FY 1994 and FY 1995 appropriations for selected cultural activities.

Part of the debate in the House and Senate on the Interior Appropriations bill for FY 1995 centered on an NEA grant given to the Walker Art Center in Minneapolis for their entire season (\$104,500) that included funds (\$150) for a single performance by Ron Athey, an HIV-positive artist. Athey's performance art is generally a comment on the AIDS epidemic, expressed through "ritualistic" practices, such as the insertion of acupuncture needles into the body, causing bleeding. Due in part to Athey's performance, both House and Senate responded with proposed cuts to NEA's funding and the final FY 1995 appropriation is 1.7 percent below the FY 1994 appropriation.

**TABLE 1.**  
**Selected FY 1994 and FY 1995 Cultural Appropriations**

	<u>FY 1994 appropriation</u>	<u>FY 1995 appropriation</u>
<b>NEA</b> . . . . .	\$170,228,000	\$167,358,000
<b>NEH</b> . . . . .	177,491,000	177,044,000
<b>IMS</b> . . . . .	28,777,000	28,715,000
<b>Smithsonian*</b> . . . . .	302,349,000	313,853,000
<b>Kennedy Center**</b> . . . . .	20,629,000	19,306,000
<b>National Gallery of Art</b> . . . . .	54,739,000	57,325,000
<b>Commission of Fine Arts*</b> . . . . .	805,000	834,000
<b>Institute of American Indian and Alaska Native Culture and Arts Development</b> . . . . .	12,563,000	11,213,000
<b>Holocaust Memorial Council</b> . . . . .	21,679,000	26,609,000
<b>Arts in Education***</b> . . . . .	8,944,000	12,000,000

\* Smithsonian and Commission of Fine Arts funds listed are salaries and expenses only.

\*\* The Kennedy Center figures include operations, repair and construction.

\*\*\* Sec. 1564, Elementary and Secondary Education Act of 1965, as amended.

Note: FY1995 figures reflect an additional .191 percent reduction for most programs in P.L. 103-332.

### Reauthorization

The National Foundation on the Arts and the Humanities Act (NFAHA) that established the National Foundation on the Arts and the Humanities, currently authorized under an extension for FY 1995, is due to be reauthorized by September 30, 1995. Reauthorization of the NFAHA will be considered in the 104th Congress. A reauthorization bill, H.R. 2351 was approved by the House and a similar measure, S. 1218, was reported by the Senate in the 103rd Congress, but action on reauthorization was not completed.

On June 17, 1993, reauthorization hearings on the NFAHA were held by the House Subcommittee on Labor-Management Relations. The hearings emphasized the recommendations submitted in September 1990 by The Independent Commission that was authorized in statute to review NEA procedures. On June 22, 1993, the House Subcommittee on Labor-Management Relations marked up a 2-year extension for NEA, NEH, and IMS. On June 29, 1993, the House Education and Labor Committee ordered reported **H.R. 2351**, the Arts, Humanities and Museums Amendments of 1993 (H. Rept. 103-186, printed July 21, 1993). On October 14, 1993, the House amended and passed H.R. 2351 by a vote of 304 to 119. Some proposed amendments were **not** agreed to: the Crane amendment to eliminate NEA; the Dornan amendment to reduce authorization levels by 40 percent for NEA, NEH, and IMS; and a motion to recommit with an amendment to prohibit the distribution of funds to illegal aliens. The Gunderson-Slaughter amendment was **agreed** to that would withhold increases in a State's allotment of NEA funds if the State's current year funding for the arts is less than the State's average amount during the 3 most recent years and if the rate of reduction exceeds the rate of all of that State's general fund reductions.

Senators Pell and Jeffords introduced **S. 1218**, a comparable bill to H.R. 2351, on July 14, 1993. The Committee on Labor and Human Resources ordered S. 1218 reported on November 3 (S. Rept. 103-182, printed November 12, 1993) after accepting a substitute amendment by Senator Kennedy with similar language to the Gunderson-Slaughter amendment stating that NEA would not increase its direct grant to any State which had decreased its own funding for the arts if the State's current funding for the arts is less than the average amount during the 3 most recent years. There was no further action on either bill in the 103rd Congress.

### Reauthorization Issues

**Federal Role in Culture.** In a time of budget constraints, there are questions about the need for and proper role of NEA, NEH, and IMS. In the past there were proposals to make a cabinet level post for the arts and humanities. Some argue that NEA be abolished altogether, contending that the Federal Government should not be in the business of supporting the arts. Some recommend that NEA be made to operate like a true foundation with less Federal involvement. Others think NEA should provide a kind of revenue sharing to the States, with relatively few strings at the Federal level, giving the States more responsibility and grant-making power. In keeping with the concept that States should have more grant-giving responsibility, the last major revision of NFAHA, the Arts,

Humanities, and Museums Amendments of 1990, **P.L. 101-512**, increased NEA's State grants allocation percentage from 20 to 27.5.

**NEA.** The controversy involving charges of obscenity concerning certain NEA grants still remains an issue. P.L. 101-512 contained provisions to improve the grant process and to recover NEA funds if the funded work was considered obscene "in the final judgment of a court." P.L. 102-154 (Department of Interior and Related Agencies Appropriations Act, 1992) reemphasized the clause added to the authorizing statute that all new grant applications must follow regulations that take into consideration "general standards of decency and respect for the diverse beliefs and values of the American public." On June 9, 1992, a California court (Judge Tashima) ruled the "decency provision" unconstitutional but an appeal by the Justice Department is still pending. To date, **no** NEA project has been judged obscene by the courts.

**NEH.** NEH may now be more vulnerable to controversy than in the past. Issues include the Chairperson's broad power over the grant process, expenditure of the special Chairperson's discretionary fund, agency appointments, the National Council's role and the need for greater public accountability. Some contend that there is no need for change, and that the appropriations level (which has been maintained at \$177 million) reaffirms Congress' historic confidence in NEH.

**IMS.** There are no major controversies regarding IMS. Museums are popular, attracting 600 million visitors annually, according to IMS. The major concern is that many of the Nation's museums compete for a relatively small amount of funding in terms of general operating support. Congress will likely be considering the proportion of grants going to general operating support as opposed to museum assessment, leadership, and conservation.

#### **Other Arts-Related Legislation**

**Arts in Education.** The Arts in Education program (ESEA, Sec. 1564) currently sustains the role of the arts in elementary and secondary education through arts demonstration programs for children under the auspices of the John F. Kennedy Center for the Performing Arts and the Very Special Arts program for children with disabilities. The program also funds the Kennedy Center's Alliance for Arts Education, which is a national network of State arts education committees that helps integrate the arts into the regular curriculum.

Under the new reauthorization of the ESEA, **Improving America's Schools Act of 1994, (P.L. 103-382)**, the current Arts in Education program is expanded to include **cultural partnerships for at-risk children and youth**, a demonstration grant program intended to strengthen and improve the educational performance and future potential for at-risk children and youth, with the Federal share paying 80 percent of the cost of authorized activities. An interagency partnership (Department of Education, National Endowment for the Arts, National Endowment for the Humanities, Institute of Museum Services) will award and administer the grants.

**(NOTE:** The recent Elementary and Secondary Education Act (ESEA) reauthorization (P.L.103-382) contained an amendment to the National Foundation on the Arts and Humanities Act to increase to \$100,000 each for FY 1995 the total amount allowed for official reception and representation expenses for the Chairperson of the NEA and NEH.)

**GOALS 2000.** In tandem with the ESEA reauthorization, the **Goals 2000: Educate America Act** was signed into law on March 31, 1994, as **P.L. 103-227**. The National Education Goals designated the **arts as a core academic subject**. The crucial goal for developing arts national standards is that by the year 2000, students will leave grades 4, 8, and 12 having mastered certain designated subject areas, among them the **arts**. In anticipation of enactment of goals legislation, some voluntary national standards for arts education were already being developed by an arts consortium for grades K through 12 for the four arts disciplines--dance, music, theatre, and the visual arts. Since there is no requirement under Goals 2000 that States and localities must adopt national standards, whether the "National Standards for Arts Education" developed by the Arts Consortium will be certified and used remains to be determined.