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DRAFT
JOINT EXPLANATORY STATEMENT
OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1264) to extend and amend the National Foundation on the Arts and the Humanities Act of 1965 and for other purposes, submit the following joint statement of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

1. Title of the Act.

The House amendment cites the title as the "Arts, Humanities, and Museum Amendments of 1985," and makes technical amendments to the title of the Act. The Senate bill cites the title as the "National Foundation on the Arts and Humanities Amendments of 1985." The Senate recedes.

2. Declaration of Purpose.

The House amendment, but not the Senate bill, makes section 2 of the Act, the Declaration of Purpose, gender free, clarifies the role of the Endowments in arts and humanities education in the schools, and adds language to ensure rural access. The Senate recedes.

3. Definitions.

(a) The House amendment, but not the Senate bill, amends section 3(a), the definition of humanities, to include the study and "interpretation" of disciplines and adds language that emphasizes the desirability of interdisciplinary and culturally diverse studies. The Senate recedes.

(b) Both the House amendment and the Senate bill amend section 3(d)(2) of the Act to allow Challenge funds to be used for construction by the National Endowment for the Humanities. The House amendment also limits both Endowments' construction efforts to the challenge program. The Senate recedes to the House language.

4. Establishment of a National Foundation on the Arts and the Humanities.

The House amendment, but not the Senate bill, amends section 4 for technical and conforming purposes. The Senate recedes.

5. Establishment of the National Endowment for the Arts.

(a) The House amendment amends section 5(b) to rename the "Chairman" to the "Chairperson" of the National Endowment for the Arts. The Senate recedes.

(b) The House amendment amends section 5(c) to authorize the Chairperson of the Endowment for the Arts to establish 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. The Chairperson is also authorized to fund projects and productions that encourage public knowledge, understanding, and appreciation of the arts. This section is also amended to give particular regard to artists and artistic groups that have traditionally been underrepresented in selecting individuals and groups of exceptional talent as recipients of financial assistance provided under this subsection (c). No comparable provision is in the Senate bill. The Senate recesses.

(b) The House amendment amends the state plan provision (section 5(g)(2)) to ensure public input. Under the House amendment, the State plan must include a summary of such recommendations; the State agency's response to the recommendations; information on progress toward achieving goals; a description of the participation of artists, artists' organizations, and arts organizations in programs funded under this subsection; a description of the availability of such programs to all people in the State; and a description of projects and productions that exist or are being developed to secure wider representation of artists, artists' organizations, art organizations, and audiences. No comparable provision is in the Senate bill. The Senate recesses.

(c) The House amendment amends section 5(1)(1)(D) to add "and local arts agencies" after "local arts groups" in the description of the cooperative programming under challenge grants, to recognize local arts agencies' participation in the Endowment's programs. Section 5(1) is further amended to clarify the cooperative efforts including rural arts development to be undertaken by State arts agencies and local arts groups in the challenge program. No comparable provision is in the Senate bill. The Senate recesses.

In making this modification, the Conferees want to emphasize that State and local art agencies are in an excellent position to participate as partners with the federal government in carrying out the purpose of this Act and should be encouraged by the Endowment.

(d) The House amendment, but not the Senate bill, adds section 5(m) which establishes a national state of the arts plan, and specifies its development, content, distribution, and due dates. The Senate recesses.

(e) The House amendment, but not the Senate bill, amends section 5 of the Act to make it gender free. The Senate recesses.

6. National Council on the Arts.

The House amendment, but not the Senate bill, amends section 6(b) of the Act to ensure the representativeness and expertise of the members of the National Council for the Arts, and requires the President to give due regard to equitable representation of women, minorities, and persons with disabilities. The Senate recesses.

The House amendment, but not the Senate bill, amends section 6 of the Act to make it gender free. The Senate recesses.

7. Establishment of the National Endowment for the Humanities.

(a) The House amendment, but not the Senate bill, amends section 7(b) to rename the "Chairman" to the "Chairperson" of the National Endowment for the Humanities. The Senate recesses.

(b) The House amendment amends section 7(c) of the Act to authorize the Chairperson of the National Endowment for the Humanities to initiate and support programs and research which have substantial scholarly and cultural significance and that reach, or reflect the diversity and richness of our American heritage. It authorizes the Chairperson to foster international programs and exchanges and directs the Endowment to give particular regard to scholars and educational and cultural institutions that have traditionally been underrepresented. No comparable provision is in the Senate bill. The Senate recesses.

In making these changes, the Conferees intend that applications for all Americans with excellent humanities projects, whatever their cultural heritage, economic status, or geographic background, would receive equitable attention.

The Conferees acknowledge the seminal role played by NEH in ensuring that the humanities play an increasingly central role in our democratic society. The Conferees note NEH's recent initiative, "Understanding Other Nations" and "Understanding America", which will encourage more knowledge of both the diversity and the common heritage of all Americans. However, because there have been reports of declines in funding a full range of studies and scholars, the Conferees want to emphasize that both Endowments should continue to develop programs that serve groups and individuals who for reasons of origin, history, geography, or economic conditions have not traditionally had access to the arts and humanities--either as participants or audiences.

(b) The House amendment amends section 7(f)(2) to ensure public input in State plans. Such plans must include a summary of recommendations; the State agency's response to the recommendations; information on progress made toward achieving goals; a description of the participation of scholars and scholarly organizations in programs funded under this section; a description of the availability of such programs to all people in the State; and a description of programs that exist or are being developed to secure wider representation of scholars, and scholarly organizations and the unavailability of humanities programs to certain communities in the state. No comparable provision is in the Senate bill. The Senate recesses.

(c) The Senate bill, but not the House amendment, amends section 7(f)(2)(B)(i) of the Act by increasing the number of members on the State humanities councils that are appointed by the Governor of the state from four to six and also increases the maximum percentage of

such members from 20 to 25 percent. The House recesses.

(d) The House amendment, but not the Senate bill, amends section 7(g) of the Act to state that the Secretary of Labor shall prescribe fair labor standards, regulations, and procedures necessary to carry out this subsection not later than 180 days after enactment. The Senate recesses.

(e) The House amendment, but not the Senate bill, amends section 7(i) of the Act to include the Davis Bacon Act provisions for the newly granted construction authority of the National Endowment for the Humanities. The Senate recesses.

(f) The House amendment, but not the Senate bill, adds section 7(j) of the Act which establishes a national state of the humanities plan specifying its development, content, distribution, and due dates. The Senate recesses.

(g) The House amendment, but not the Senate bill, amends section 7(k) of the Act to require the Chairperson of the National Endowment for the Humanities to transmit to the Equal Employment Opportunity Commission not later than 30 days after enactment, each plan and each report required under any regulation or management directive that is issued by the Commission in effect on the date of enactment of the bill. The Senate recesses with an amendment setting the submission date as January 31, 1986.

(h) The House amendment, but not the Senate bill, amends section 7 of the Act to make the statute gender free. The Senate recesses.

8. Establishment of the National Council on the Humanities.

(a) Both the House amendment and the Senate bill amend section 8(b) of the Act to ensure the representativeness and expertise of the members of the National Council for the Humanities. The House amendment calls for selection from individuals with "broad knowledge..." and the Senate bill refers only to "knowledge of...". The House requires an "established record" of distinguished service, and also requires the President to give due regard to women, minorities, and persons with disabilities. The Senate recesses to the House language.

(b) The House amendment, but not the Senate bill, amends section 8 of the Act to make the Act gender free. The Senate recesses.

9. Arts and Artifacts Indemnity Act.

(a) The Senate bill, but not the House amendment, amends section 5(c) of the AAI to increase coverage of individual exhibitions from \$50 million to \$75 million. The House recesses.

(b) The House amends section 9(b) of the Act, adding a restriction on the composition of the Federal Council on the Arts and the Humanities for the purposes of administering the Arts and Artifacts

Indemnity Act. The Senate makes this same change by amending Section 2(B)(2) of the Arts and Artifacts Indemnity Act. The House recesses.

10. Establishment of the Federal Council on the Arts and Humanities.

(a) The House amendment, but not the Senate bill, amends section 9 of the Act to require that the Federal Council conduct a study of the nature and level of Federal support provided to museums with particular attention to the impact of the Institute of Museum Services, the areas in which support overlaps or is inadequate, and the impact of conservation and preservation efforts. The Senate recesses.

(b) The House amendment, but not the Senate bill, requires the Council to develop and submit to the President policy recommendations regarding the acquisition, disposal, and maintenance of works of art on Federal property. The House recesses.

(c) The House amendment, but not the Senate bill, amends section 9 of the Act to make the statute gender free. The Senate recesses.

11. Administrative Provisions.

(a) The House amendment, but not the Senate bill, amends section 10 of the Act to ensure representativeness, expertise, and rotation on the subpanels and panels of experts which review application, to provide stringent pre-award criteria and to prohibit panel members from serving on a panel or subpanel if they have an application pending before such group. Section 10(d) is amended by the House amendment, but not the Senate bill, to ensure post-award evaluation of financial assistance under this Act which shall be taken into consideration in future grant decisions. The Senate recesses.

In accepting these provisions, the Conferees want to ensure that the Endowments fund only works of artistic and scholastic excellence, and that the applications are reviewed by panels of peer experts before funding decisions are made. The Conferees accept changes made in this section and hope these changes are sufficient to ensure the representativeness, expertise, openness, and objectiveness which the Congress demands.

The Conferees wish to affirm that peer panels have generally provided equitable grant making at the NEA. Because of the current practice of appointing all members for one year terms and thereby ensuring significant turnover in membership, less than 10% of the panelists in 1985 has served for more than three years on a panel. To build on and ensure that this turnover continues in the future, the Conferees agree to the language in the House bill concerning the duration of service of panel members.

The Conferees also wish to acknowledge that the NEA has guidelines addressing possible conflicts of interest among panel members which require that a panelist must excuse himself or herself from the deliberative process in the event that they are connected with the

application being considered. Again, to further reinforce the concern for maintaining a fair panel process, the Conferees agree to the language in the House bill concerning conflict of interest and panel and subpanel membership.

Also, in making these modifications, the Conferees direct the Chairperson of the Endowments to determine clearly in post-award reviews that the grant objectives were achieved, and to provide direction when compliance requirements are not met.

It is the Conferees understanding that NEA has improved their post-award evaluation procedures over the last two years. NEA requires both descriptive and financial reports from most grantees. It conducts site visits and produces site reports on the productions it funds and, since 1981, has increased these site visits ten-fold. It denies consideration to applicants who submit applications for funding when such applicants have not filed the required descriptive and financial reports with NEA for grants they have received previously. It has indicated that post-evaluation information is taken into account when an applicant submits an application for a new grant and that such information is reviewed by panelists making recommendations for future funding. Nevertheless, the Conferees believe that there should be additional effort in this area, and agree to the language in the House amendment which affirms the importance of post-grant evaluations.

The Conferees have been made aware of considerable material submitted by the agency and others on a variety of management issues, and believe that with the exception of rare and isolated cases the National Endowment for the Arts is well managed.

(b) The House amendment, but not the Senate bill, amends section 10 of the Act to require the Chairpersons of the National Endowment for the Arts and the National Endowment for the Humanities, with the cooperation of the Secretary of Education to conduct a study of arts and humanities education, as currently taught in the public elementary and secondary schools in the United States; and the current and future availability of qualified instructional personnel, and other factors, affecting the quality of education in the arts and humanities in such schools. This amendment also specifies procedures to follow in conducting the study, timeliness, and guidelines for reporting findings. The Senate recedes.

(c) The House amendment, but not the Senate bill, amends section 10 of the Act to make the Act gender free. The Senate recedes.

12. Authorization of Appropriations.

The House amendment amends section 11 of the Act to reauthorize the Act for two years. Authorization levels for FY86 for NEA and NEH respectively are \$167,060,000 and \$139,878,000; for FY87 the levels for NEA and NEH respectively are \$170,206,400 and \$145,067,120. The levels in the Senate bill are \$3,400,000 lower for NEA for FY86 and \$400,000 lower for NEH for FY86. The House and the Senate have

identical levels for FY87. The Senate levels for FY88 are \$177,014,656 for NEA and \$150,869,405 for NEH. For FY89 and FY90 the Senate authorizes "such sums." The Senate recesses to the House on funding levels for FY86 and the House recesses to the Senate on the balance of the differences, including the length of reauthorization.

The House amendment, but not the Senate bill, amends section 11 of the Act to make the Act gender free. The Senate recesses.

13. National Museums Services Board.

The House amendment, but not the Senate bill, amends section 204(a)(1), of the Museum Services Act to ensure the representativeness, expertise, and geographic distribution of the appointees to the National Museum Services Board, and requires the President to give due regard to women, minorities, and persons with disabilities. The Senate recesses.

The House amendment, but not the Senate bill, amends sections 204 and 205 of the Museum Services Act to make the statute gender free. The Senate recesses.

14. Authorization of Appropriations.

The House reauthorizes the Institute of Museum Services for 2 years and authorizes \$21.6 million for FY86 and \$22.464 million for FY87. The Senate bill reauthorizes IMS for 5 years with \$21.6 million for FY86; \$22.464 million for FY87; \$23.362.6 million for FY87, and such sums for the remaining two years. The House recesses to the Senate.

15. Arts, Artifacts, and Indemnity Act.

The Senate bill, but not the House amendment, amends section 3(b)(1) of the Arts, Artifacts, and Indemnity Act by changing the phrase "or elsewhere when both part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered" to read, "or elsewhere, preferably when part of an exchange of exhibitions". The House recesses.

16. Effective Date.

(a) The House amendment cites the effective date for this Act as October 1, 1985; The Senate bill has the Act take effect once signed. The House recesses.

(b) The House amendment, but not the Senate bill, delays the application of the sections which deal with changes to the state plans such that the changes shall not apply with respect to plans submitted for financial assistance for FY86. The Senate recesses.

17. GAO Study.

The Senate bill, but not the House amendment, requires that the

Comptroller General of the United States conduct a study to determine the feasibility of supplementing expenditures for the programs authorized under the National Foundation on the Arts and the Humanities Act through other Federal funding mechanisms. The House recesses.

18. Commemoration of the Bicentennial of the U.S. Constitution.

The Senate bill, but not the House amendment, authorizes the Commission on the Bicentennial of the U.S. Constitution to carry out an education program for the commemoration of the Bicentennial of the U.S. Constitution and the Bill of Rights. The House recesses.

19. Poet Laureate.

The Senate bill, but not the House amendment, establishes a Poet Laureate Consultant in Poetry within the Library of Congress, who will be appointed by the Librarian. The House recesses.