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Legislative History of the Reauthorization of the National Endowment for the Arts (NEA) (1990): Book Chapter 01

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UNITED STATES CODE
CONGRESSIONAL AND
ADMINISTRATIVE NEWS

101st Congress—Second Session
1990

Convened January 23, 1990

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Volume 2

PUBLIC LAWS 101-508 to 101-548
[104 Stat. pages 1388 to 2398]

PL 101-512
§ 318 as passed

ST. PAUL, MINN.
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funds in support of Operation Desert Shield, to be merged with and to be available for the same purposes and the same time period as the appropriation to which transferred: *Provided*, That the foregoing transfer authority shall be in addition to any other transfer authority contained in this Act.

This Act may be cited as the "Department of Defense Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5803 (S. 3189):

HOUSE REPORTS: No. 101-822 (Comm. on Appropriations) and No. 101-938 (Comm. of Conference).

SENATE REPORTS: No. 101-521 accompanying S. 3189 (Comm. on Appropriations). CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 12, considered and passed House.

Oct. 15, S. 3189 considered and passed Senate; H.R. 5803, amended, passed in lieu.

Oct. 16, passage of S. 3189 vitiated.

Oct. 25, House agreed to conference report.

Oct. 26, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

PUBLIC LAW 101-512 [H.R. 5769]; November 5, 1990

DEPARTMENT OF THE INTERIOR AND RELATED
AGENCIES APPROPRIATIONS ACT, 1991

For Signing Statement of Act, see p. 3283-4.

An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

Department of
the Interior and
Related
Agencies
Appropriations
Act, 1991.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, \$500,112,000 of which the following amounts shall remain available until expended: not to exceed \$1,200,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-6a(i)), and \$20,000,000 for the Automated Land and Mineral Record System Project: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors.

FIREFIGHTING

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire suppression, and other related emergency actions by the Department of the Interior, \$168,765,000, to remain available until expended: *Provided*, That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$15,386,000 to remain available until expended.

the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided*, That after September 30, 1990, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further*, That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further*, That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

Oregon.
California.

Sec. 315. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876) to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1991 receipts derived from the Oregon and California grant lands shall not be less than 90 per centum of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the three-year baseline period of fiscal years 1988 through 1990: *Provided*, That in no event shall this payment exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1991.

Wildlife.

Sec. 316. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for National Forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1991 receipts shall not be less than 90 per centum of the average annual payments to States, based on receipts collected on those National Forests during the three-year baseline period of fiscal years 1988 through 1990: *Provided*, That in no event shall these payments exceed the total amount of receipts collected from the affected National Forests during fiscal year 1991.

Sec. 317. (a) The sum of \$500,000 is hereby appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (SEIS) for the proposed Early Winters Alpine Sports Site in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS.

SEC. 318. SHORT TITLE.

This section may be cited as the "Arts, Humanities, and Museums Amendments of 1990".

Arts,
Humanities, and
Museums
Amendments of
1990.
20 USC 951 note.

TITLE I—AMENDMENTS TO THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT OF 1965

SEC. 101. DECLARATION OF FINDINGS AND PURPOSES.

Section 2 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951) is amended to read as follows:

"DECLARATION OF FINDINGS AND PURPOSES

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

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

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

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

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

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

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

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

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

"(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives,

the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

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

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

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

SEC. 102. DEFINITIONS.

(a) LOCAL ARTS AGENCY.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (b) by inserting "all those traditional arts practiced by the diverse peoples of this country." after "forms," and

(2) by adding at the end the following:

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

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

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

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

(b) TECHNICAL AMENDMENTS.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (b) by inserting "film, video," after "radio,"

(2) in subsection (c) by inserting "film, video," after "radio," and

(3) in subsection (d)—

(A) in the first sentence by inserting "the widest" after "enhance", and

(B) in paragraph (2) by striking "sections 5(1)" and inserting "sections 5(p), 7(c)(10)."

(c) DETERMINED TO BE OBSCENE; FINAL JUDGMENT.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952), as amended by subsection (a), is amended by adding at the end the following:

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

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

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

"(2) is not reviewable by any other court.

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

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

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

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

SEC. 103. NATIONAL ENDOWMENT FOR THE ARTS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended—

(1) by amending paragraph (1) to read as follows:

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

(2) in paragraph (2) by inserting "or tradition" after "authenticity",

(3) in paragraph (5) by inserting "education," after "knowledge,"

(4) in paragraph (7) by striking "and",

(5) by redesignating paragraph (8) as paragraph (10),

(6) by inserting after paragraph (7) the following:

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

"(9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and", and

(7) in the matter following paragraph (10), as so redesignated, by striking "clause (8)" and inserting "paragraph (10)".

(b) ARTISTIC EXCELLENCE AND OBSCENE MATTER.—Section 5(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(d)) is amended to read as follows:

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

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

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

Regulations.

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

(c) TECHNICAL AMENDMENT.—Section 5(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(f)) is amended by striking "1954" and inserting "1986".

(d) STATE APPLICATIONS FOR ASSISTANCE.—Section 5(g)(2)(E) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(2)(E)) is amended by striking clauses (i) and (ii), and inserting the following:

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

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

(e) PURPOSES OF PROGRAM PROVIDING ASSISTANCE TO AGENCIES AND ORGANIZATIONS.—Section 5(l)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)(1)) is amended—

(1) in subparagraph (E) by striking "and" at the end, (2) in subparagraph (F) by striking the period at the end and inserting "; and", and

(3) by inserting after subparagraph (F) the following: "(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation."

(f) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(m)) is amended—

(1) in the first sentence—
 (A) by inserting "ongoing" after "shall, in",
 (B) by striking "develop" and inserting "continue to develop and implement", and
 (C) by inserting "and public dissemination" after "collection",
 (2) by striking the fourth sentence, and
 (3) in the last sentence by striking "1988, and biennially" and inserting "1992, and quadrennially".

(g) CONTENTS OF APPLICATIONS; INSTALLMENT PAYMENTS.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954) is amended—

(1) by redesignating subsections (i) through (m) as subsections (l) through (p), respectively, and
 (2) by inserting after subsection (h) the following:

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

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

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

"(3) an assurance that the applicant will submit—

"(A) interim reports describing the applicant's—

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

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

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

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

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

"(C) not later than 90 days after—

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

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

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

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

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

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

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

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

(h) LIMITATION ON RECEIPT OF FINANCIAL ASSISTANCE.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954), as amended by subsection (g), is amended—

(1) by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and

(2) by inserting after subsection (k) the following:

"(l)(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and condi-

Regulations.

Reports.

tions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance be provided under this section to such recipient.

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

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

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

(i) TECHNICAL AMENDMENTS.—(1) Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(i)), as so redesignated by subsections (g) and (h), is amended by striking "subsection (j)" and inserting "subsection (n)".

(2) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A) by striking "section 5(l)(1)" each place it appears and inserting "section 5(p)(1)", and

(ii) in subparagraph (C) by striking "section 5(l)(1)" and inserting "section 5(p)(1)", and

(B) in paragraph (4) by striking "section 5(l)(1)" and inserting "section 5(p)(1)".

SEC. 104. INNOVATIVE PROGRAMS TO EXPAND PUBLIC ACCESS TO THE ARTS IN RURAL AND INNERCITY AREAS.

Section 5(p) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(1)), as so redesignated and amended by section 103, is amended—

(1) in paragraph (3) by striking "section 5(c)" and inserting "subsection (c)",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(3) by inserting after paragraph (1) the following:

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

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

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

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

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

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

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

Government contracts. Grant programs. Intergovernmental relations.

SEC. 105. STRENGTHENING ARTS THROUGH ARTS EDUCATION.

The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951-960) is amended by inserting after section 5 the following:

"ACCESS TO THE ARTS THROUGH SUPPORT OF EDUCATION

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

20 USC 954a.

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

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

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

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

Government contracts. Grant programs.

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

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

"(3) develop arts faculty resources and talents;

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

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

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

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

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

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

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

Establishment.

SEC. 106. NATIONAL COUNCIL FOR THE ARTS.

(a) **MEMBERSHIP OF COUNCIL.**—Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended by adding at the end the following: "Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States."

(b) **MEETINGS AND RECORDS.**—Section 6(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(d)) is amended—

(1) by inserting "(1)" after "(d)", and

(2) by adding at the end the following:

"All policy meetings of the Council shall be open to the public.

"(2) The Council shall—

"(A) create written records summarizing—

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

"(ii) the recommendations made by the Council to the

Chairperson; and

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

(c) **AUTHORITY OF COUNCIL.**—Section 6(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(f)) is amended—

(1) in the first sentence—

(A) by striking "(1)" and "(2)",

(B) by striking "thereon", and

(C) by inserting before the period the following:

"with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant",

(2) in the second sentence by striking ", unless" and all that follows through "time",

(3) in the last sentence—

(A) by striking "a delegation" and inserting "an expressed and direct delegation", and

(B) by striking "; *Provided, That*" and inserting "; and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that",

(4) by inserting after the second sentence the following:

"The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.", and

(5) by inserting after the first sentence the following:

"The Council shall make recommendations to the Chairperson concerning—

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

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

Freedom of
information.
Records.

SEC. 107. NATIONAL ENDOWMENT FOR THE HUMANITIES.

(a) **TECHNICAL AMENDMENT.**—Section 7(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(a)) is amended by striking "a" and inserting "the".

(b) **AUTHORITY OF CHAIRPERSON.**—Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended—

(1) in the matter preceding paragraph (1) by inserting "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" after "is authorized to",

(2) in paragraph (2) by striking "(including contracts, grants, loans, and other forms of assistance)",

(3) in paragraph (3)—

(A) by striking "award" and all that follows through "Fellowships", and inserting "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships)", and

(B) by striking "time;" and inserting "time);",

(4) in paragraph (7) by striking "through grants or other arrangements",

(5) in paragraph (8) by striking "and",

(6) in paragraph (9) by striking the period and inserting "; and", and

(7) by inserting after paragraph (9) the following:

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

(c) **COORDINATION OF PROGRAMS.**—Section 7(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(d)) is amended by striking "correlate" and inserting "coordinate".

(d) **ADMINISTRATION BY STATE AGENCIES.**—

(1) **DESIGNATION.**—Section 7(f)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)) is amended by striking "of the enactment of the Arts, Humanities, and Museums Amendments of 1985," and inserting "the State agency is established".

(2) **APPLICATION FOR FINANCIAL ASSISTANCE.**—Section 7(f)(2)(A)(viii) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)(viii)) is amended—

(A) in subclause (I) by striking "previous two years" and inserting "most recent preceding year for which information is available", and

(B) in subclause (II) by inserting "for the most recent preceding year for which information is available," after "(II)".

(3) **CONTENTS OF STATE PLAN.**—Section 7(f)(3)(J) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(3)(J)) is amended—

(A) in clause (i) by striking "previous two years" and inserting "most recent preceding year for which information is available", and

(B) in clause (ii) by inserting "for the most recent preceding year for which information is available," after "(ii)".

(e) **CONDITION OF RECEIPT OF GRANTS.**—The last sentence of section 7(g) of the National Foundation on the Arts and the Humanities Act

of 1965 (20 U.S.C. 956(g)) is amended by striking "not later" and all that follows through "1985".

(f) TECHNICAL AMENDMENT.—The last sentence of section 7(h)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(h)(2)(B)) is amended by striking "Endowment on" and inserting "Endowment for".

(g) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 7(k) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(k)) is amended—

(1) in the first sentence—

(A) by inserting "ongoing" after "shall, in",

(B) by striking "develop" and inserting "continue to develop and implement", and

(C) by inserting "and public dissemination" after "collection",

(2) by striking the third sentence, and

(3) in the last sentence by striking "1988, and biennially" and inserting "1992, and quadrennially".

(h) RECEIPT OF FINANCIAL ASSISTANCE AND AWARDS.—Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956) is amended by striking subsection (l) and inserting the following:

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

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

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

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

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

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

SEC. 108. FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES.

(a) DIALOGUE AMONG FEDERAL AGENCIES.—Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(c)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

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

(b) TECHNICAL AMENDMENT.—Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended by striking subsection (d).

SEC. 109. REVIEW PANELS; TECHNICAL AMENDMENTS.

Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959) is amended—

(1) in subsection (a)—

(A) in paragraph (4) by striking "from time to time, as appropriate," and

(B) in paragraph (6) by striking "the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)" and inserting "section 3324 of title 31, United States Code",

(2) in subsection (d)(3) by striking "the last sentence of subsection (a)" and inserting "subsection (c)(3)(A)",

(3) by striking subsections (e) and (f),

(4) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively,

(5) in the second sentence—

(A) by striking "In any case" and inserting the following:

"(b)(1) In any case",

(B) by striking "(A)", and

(C) by striking "(B)",

(6) in the third sentence by striking "In any case" and inserting the following:

"(2) In any case",

(7) in the fourth sentence by striking "For the purposes" and inserting the following:

"(3) For the purposes",

(8) in the fifth sentence by striking "For the purpose" and inserting the following:

"(4) For the purpose", and

(9) by striking the sixth sentence and all that follows through "pending.", and inserting the following:

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

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

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

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

"(4) to require panels—

"(A) to create written records summarizing—

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

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

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

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

Regulations.

Records.

Reports.

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

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

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATIONS FOR THE NATIONAL ENDOWMENT FOR THE ARTS.**—Section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(A)) is amended—

(1) by inserting "(i)" after "Sec. 11(a)(1)(A)",

(2) in the first sentence by striking "\$121,678,000" and all that follows through "1990", and inserting: "\$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(ii) For fiscal years—

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

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

shall be for carrying out section 5(g).

"(iii) For fiscal years—

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

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

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

(b) **GENERAL AUTHORIZATIONS FOR THE NATIONAL ENDOWMENT FOR THE HUMANITIES.**—The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended by striking "\$95,207,000" and all that follows through "1990"; and inserting "\$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(c) **TECHNICAL AMENDMENT.**—Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by striking subparagraph (C).

(d) **INCENTIVE AUTHORIZATIONS FOR THE ENDOWMENTS.**—(1) Section 11(a)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) in clause (ii) by striking "paragraph (8)" and inserting "paragraph (10)", and

(C) by striking "\$8,820,000" and all that follows through "1990", and inserting "\$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(2) Section 11(a)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) by striking "(9)" and inserting "(10)", and

(C) by striking "\$10,780,000" and all that follows through "1990", and inserting "\$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(3) Section 11(a)(3)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "\$20,580,000" and all that follows through "1990", and inserting "\$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(4) Section 11(a)(3)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "\$19,600,000" and all that follows through "1990", and inserting "\$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(e) **AUTHORITY TO TRANSFER FUNDS.**—Section 11(a)(3) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)) is amended—

(1) by striking subparagraph (C), and

(2) by redesignating subparagraph (D) as subparagraph (C).

(f) **ADMINISTRATION: OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.**—Section 11(c)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(1)) is amended—

(A) by striking "\$15,982,000" and all that follows through "1990", and inserting "\$21,200,000" for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "\$35,000" each place it appears and inserting "\$50,000".

(2) Section 11(c)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(2)) is amended—

(A) by striking "\$14,291,000" and all that follows through "1990", and inserting "\$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "\$35,000" each place it appears and inserting "\$50,000".

(g) **ARTS EDUCATION.**—Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended by adding at the end the following:

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

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

Rural areas.
Urban areas.

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

20 USC 954 note.

SEC. 111. GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS.

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study—

(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

(b) **REPORT REQUIRED.**—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a).

SEC. 112. GAO STUDY, FINDINGS, AND RECOMMENDATIONS REGARDING STAFFING AND CONTRACTORS OF THE NEA.

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study of—

(1) the program staffing policies and practices of,

(2) the use of consultants by, and

(3) the use of independent contractors as administrative staff of,

the National Endowment for the Arts.

(b) **REPORT REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(1) the results of the study conducted under subsection (a), and

(2) findings and recommendations with respect to the matters specified in paragraphs (1), (2), and (3) of such subsection.

TITLE II—AMENDMENTS TO THE MUSEUM SERVICES ACT

SEC. 201. NATIONAL MUSEUM SERVICES BOARD.

(a) **MEMBERSHIP.**—Section 204(a)(1)(A) of the Museum Services Act (20 U.S.C. 963(a)(1)(A)) is amended by inserting “conservation,” after “curatorial.”

(b) **MEETINGS.**—Section 204(d)(1) of the Museum Services Act (20 U.S.C. 963(d)(1)) is amended by striking “four” and inserting “three”.

SEC. 202. DIRECTOR.

(a) **COMPENSATION.**—(1) Section 205(a)(1) of the Museum Services Act (20 U.S.C. 964(a)(1)) is amended by striking “be compensated at the rate provided for level V of the Executive Schedule (section 5316 of title 5), and shall”.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

“Director of the Institute of Museum Services.”

(b) **TECHNICAL AMENDMENT.**—Section 205(a)(2) of the Museum Services Act (20 U.S.C. 964) is amended by striking “Chairperson’s” and inserting “Director’s”.

SEC. 203. ACTIVITIES.

(a) **CONSERVATION.**—Section 206 (a)(5) of the Museum Services Act (20 U.S.C. 965(a)(5)) is amended by striking “artifacts and art objects” and inserting “their collections”.

(b) **AUTHORITY OF DIRECTOR.**—Section 206 (b) of the Museum Services Act (20 U.S.C. 965(b)) is amended—

(1) in paragraph (1)—

(A) by striking “with professional museum organizations”,

(B) by striking “to such organizations”, and

(C) by striking “enable such organizations to”,

(2) in paragraph (2)—

(A) by striking subparagraph (A), and

(B) in subparagraph (B)—

(i) by striking “(B)”,

(ii) by striking “the”, and

(iii) by striking “of any professional museum organization”,

(3) in paragraph (3) by striking “to professional museum organizations”, and,

(4) by striking paragraph (4).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

(A) **GENERAL AUTHORIZATION OF APPROPRIATIONS.**—Section 209(a) of the Museum Services Act (20 U.S.C. 967(a)) is amended by striking “\$21,600,000” and all that follows through “1990”, and inserting “\$24,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993”.

(b) **INCENTIVE AUTHORIZATION OF APPROPRIATIONS.**—Section 209(d) of the Museum Services Act (20 U.S.C. 967(d)) is amended—

(1) by striking “during the period” and all that follows through “1990”,

(2) by inserting “for each fiscal year ending before October 1, 1993,” after “appropriated”, and

(3) by striking “such period” and inserting “such fiscal year”.

SEC. 205. ASSESSMENT OF CERTAIN MUSEUMS.

The Museum Services Act (20 U.S.C. 961-968) is amended by adding at the end the following:

“ASSESSMENT OF CERTAIN MUSEUMS

“Sec. 211. The Director, subject to the policy direction of the Board and in consultation with appropriate representatives of the museum and cultural communities shall undertake an assessment of the needs of small, emerging, minority, and rural museums. The assessment, to be completed and presented to Congress within two years of enactment, shall include but not necessarily be limited to, the following subjects:

“(1) The need for resources to identify, collect, document, research, preserve and interpret tangible and nontangible

20 USC 969.