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SHORT TITLE

NEH

AN ACT

To provide for the establishment of the National Foundation on the Arts and the Humanities to promote progress and scholarship in the humanities and the arts in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Foundation on the Arts and the Humanities Act of 1965."

California

§ 8756. Short title

This chapter shall be known and may be cited as the Dixon-Zenovich-Maddy California Arts Act of 1975.

Colorado

23-9-101. Short title. This article shall be known and may be cited as the "Colorado Arts and Humanities Act of 1967".

SECTION OUTLINES

California

Sec.

- 8750. Legislative perceptions: policy.
- 8751. Arts council; membership; terms of office; chairperson; compensation.
- 8751.5. Conflict of interests.
- 8752. Meetings of council.
- 8753. Duties of council.
- 8753.5. Grants and funding; programs established pursuant to chapter.
- 8754. Director; deputies.
- 8755. Special recognitions.
- 8755.5. Executive office; secondary offices.
- 8756. Short title.
- 8756.5. Repealed.
- 8757, 8758. Repealed.

Colorado

State Council on the Arts and Humanities

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| 23-9-101. Short title. | 23-9-104. Meetings of council — quorum. |
| 23-9-102. Legislative declaration. | 23-9-105. Powers of the council. |
| 23-9-103. Establishment of council —
members — term of office —
chairman — compensation. | 23-9-106. Duties of the council. |
| | 23-9-107. Interference by council prohibited. |

New York

ARTICLE 19-I—COUNCIL ON THE ARTS

Sec.

- 526. Legislative findings and declaration of policy.
- 527. Council on the arts.
- 528. General powers and duties of council.
- 529. Assistance of other agencies.

LEGISLATIVE FINDINGS AND DECLARATION OF PURPOSE

NEH

DECLARATION OF PURPOSE

SEC. 2 (20 U.S.C. 951) The Congress hereby finds and declares—

(1) that the encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government;

(2) that a high civilization must not limit its efforts to science and technology alone but must give full value and support to the other great branches of man's 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;

(3) that democracy demands wisdom and vision in its citizens and that it must therefore foster and support a form of education designed to make men masters of their technology and not its unthinking servant;

(4) that 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, and regional, and private agencies and their organizations;

(5) that the practice of art and the study of the humanities requires constant dedication and devotion and that, 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;

(6) that 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; and

(7) that, in order to implement these findings, it is desirable to establish a National Foundation on the Arts and the Humanities.

California

§ 8750. Legislative perceptions; policy

The Legislature perceives that life in California is enriched by art.

The source of art is in the natural flow of the human mind. Realizing craft and beauty is demanding, however, the people of the state desire to encourage and nourish these skills wherever they occur, to the benefit of all.

Colorado

23-9-102. Legislative declaration. (1) The general assembly finds and declares:

(a) That encouragement and support of the arts and humanities, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the state government;

(b) That many of our citizens lack the opportunity to view, enjoy, or participate in living theatrical performances, musical concerts, operas, dance and ballet recitals, art exhibits, examples of fine architecture, and the performing and visual arts generally;

(c) That, with increasing leisure time, the practice and enjoyment of the arts and humanities are of increasing importance;

(d) That many of our citizens possess talents of an artistic and creative nature which cannot be utilized to their fullest extent under existing conditions;

(e) That the general welfare of the people of the state will be promoted by giving further recognition to the arts and humanities as a vital part of our culture and heritage and as an important means of expanding the scope of our community life;

(f) That it is desirable to establish a state council on the arts and humanities and to provide such recognition and assistance as will encourage and promote the state's artistic and cultural progress;

(g) That it is the policy of the state to cooperate with private patrons, private and public institutions, and professional and nonprofessional organizations concerned with the arts and humanities to insure that the role of the arts and humanities in the life of our communities will continue to grow and to play an evermore significant part in the welfare and educational experience of our citizens and to establish the paramount position of this state in the nation and in the world as a cultural center;

(h) That all activities undertaken by the state in carrying out the policy set out in this section shall be directed toward encouraging and assisting, rather than in any way limiting, the freedom of artistic expression which is essential for the well-being of the arts and humanities.

New York

§ 526. Legislative findings and declaration of policy

It is hereby found that many of our citizens lack the opportunity to view, enjoy or participate in living theatrical performances, musical concerts, operas, dance and ballet recitals, art exhibits, examples of fine architecture, and the performing and fine arts generally. It is hereby further found that, with increasing leisure time, the practice and enjoyment of the arts are of increasing importance and that the general welfare of the people of the state will be promoted by giving further recognition to the arts as a vital aspect of our culture and heritage and as a valued means of expanding the scope of our educational programs.

It is hereby declared to be the policy of the state to join with private patrons and with institutions and professional organizations concerned with the arts to insure that the role of the arts in the life of our communities will continue to grow and will play an ever more significant part in the welfare and educational experience of our citizens and in maintaining the paramount position of this state in the nation and in the world as a cultural center.

It is further declared that all activities undertaken by the state in carrying out this policy shall be directed toward encouraging and assisting rather than in any ways limiting the freedom of artistic expression that is essential for the well-being of the arts.

DEFINITIONS

NEH

DEFINITIONS

SEC. 3. (20 U.S.C. 952) As used in this Act—

(a) The term "humanities" includes, but is not limited to, the study of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to the relevance of the humanities to the current conditions of national life.

(d) The term "project" means existing programs which further the purposes of this Act, and programs newly organized to further such purposes, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding of the arts, and includes, where appropriate, rental, or purchase of facilities, purchase or rental of land, and acquisition of equipment.

(e) The term "group" includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

North Carolina

ARTICLE 47.

Promotion of Arts.

§ 148-403. "Arts" defined. — The term "arts" includes, but is not limited to: music, dance, drama, creative writing, architecture and allied fields, painting, sculpture, photography, crafts, television, radio, and the execution and exhibition of such major art forms.

NEH

ESTABLISHMENT OF THE NATIONAL COUNCIL ON THE HUMANITIES

SEC. 8. (20 U.S.C. 957) (a) There is established in the National Endowment for the Humanities a National Council on the Humanities.

(b) The Council shall be composed of the Chairman of the National Endowment on the Humanities, who shall be the Chairman of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be selected on the basis of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities.

California

§ 8751. Arts council; membership; terms of office; chairperson; compensation

(a) There is in the state government an Arts Council which shall be composed of 11 members. On or before January 10, 1979, the Speaker of the Assembly and the Senate Rules Committee shall each appoint one member to represent the general public. Prior to appointing the remaining nine members, the Governor shall request and consider recommendations from organizations representing the arts community and when making his appointments shall give consideration to the various arts disciplines and ethnic and geographic parts of the state. All appointments made to the council by the Governor shall be subject to confirmation by the Senate.

Colorado

23-9-103. Establishment of council - members - term of office - chairman - compensation. (1) There is hereby established within the department of higher education a state council on the arts and humanities, referred to in this article as the "council". The council shall consist of eleven members, including the chairman, to be appointed by the governor. The members of the council shall be broadly representative of the major fields of the arts and humanities and shall be appointed from among private citizens who are widely known for their competence and experience in connection with the arts and humanities, as well as their knowledge of community and state interests. In making these appointments, the governor shall seek and consider those recommended for membership by persons or organizations involved in civic, educational, business, labor, professional, cultural, ethnic, and performing and creative arts fields, as well as those with knowledge of community and state interests. At least one such person from each area designated shall be a member of the council, the membership to include both men and women.

COUNCIL MEMBERSHIP

Massachusetts

§ 40. Establishment; composition; appointments; chairman and vice chairman; program and budget; expenses of members

There shall be in the department, but not subject to its control, a council on the arts and humanities, in this and the following five sections referred to as the council, consisting of fifteen members to be appointed by the governor from among qualified private citizens of the commonwealth who have demonstrated scholarship or creativity in, or distinguished service to, the arts and humanities, and who shall be broadly representative of all fields of the performing arts, the fine arts, and the humanities. In making such appointments the governor shall give due consideration to recommendations made by representative civic, educational, and professional groups concerned with the arts and humanities and shall maintain a reasonable balance in the membership of the council between members who represent the performing arts, the fine arts, and the humanities.

New York

§ 527.¹ Council on the arts

1. There is hereby created in the executive department a council on the arts. The council shall consist of fifteen members, broadly representative of all fields of the performing and fine arts, to be appointed by the governor, with the advice and consent of the senate, from among private citizens who are widely known for their professional competence and experience in connection with the performing and fine arts. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups, concerned with or engaged in the production or presentation of the performing and fine arts generally.

North Carolina

§ 143B-88. North Carolina Arts Council — members; selection; quorum; compensation. — The North Carolina Arts Council shall consist of 24 members appointed by the Governor.

NEH

(c) Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of his term.

California

(b) Five of the eleven members shall hold office for four years, four shall hold office for three years, and two shall hold office for two years. Terms of office shall be determined by lot at the first meeting of the council after January 1, 1979.

(c) Nothing in this section shall prevent the reappointment or replacement of any individual presently serving on the existing Arts Council unless such person has already served for more than four consecutive years as a member of the California Arts Council or Arts Commission.

Colorado

(2) Each member of the council, except the chairman, shall hold office for a term of six years commencing on July 1 of the year of appointment, but the terms of members first appointed shall expire on June 30, as designated by the governor at the time of appointment, as follows: Three members at the end of the second year after appointment, four at the end of the fourth year, and four at the end of the sixth year. No member of the council shall be eligible for reappointment during the two-year period following the expiration of his term. Any vacancy occurring on the council other than by expiration of term shall be filled by the governor by the appointment of a qualified person for the unexpired term.

Massachusetts

Other than the chairman no member of the council who completes a three year term shall be eligible for reappointment during a one year period following the expiration of his term.

Upon the expiration of the term of any member his successor shall be appointed for a term of three years. Any vacancy shall be filled for the balance of the unexpired term. Said members shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Historical Note

St. 1968, c. 380, § 1, an emergency act, approved Sept. 1, 1968, which added this section and sections 41 to 45 of this chapter, in section 2 provided: "Of the members first appointed to the council on the arts and humanities under sec-

tion forty of chapter fifteen of the General Laws, inserted by section one of this act, five shall be appointed for a term of one year, five for a term of two years and five for a term of three years."

New York

2. The term of office of each member of the council shall be five years, provided, however, that the initial members shall be those persons who are members of the temporary state commission known as the New York state council on the arts, and the terms of such initial members shall expire in accordance with their appointments to such temporary state commission. Vacancies in the council occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as original appointments.

North Carolina

The initial members of the Council shall be the appointed members of the present Arts Council who shall serve for a period equal to the remainder of their current terms on the Arts Council, eight of whose terms expire June 30, 1973, eight of whose terms expire June 30, 1974, and eight of whose terms expire June 30, 1975. At the end of the respective terms of office of the initial members, the appointments of their successors shall be for terms of three years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

COUNCIL MEMBERSHIP: CONFLICT OF INTEREST

California

§ 8751.5. Conflict of interests

If any member of the council is an employee, member, director, or officer of any arts organization that has applied to the council for a grant, such member shall not communicate with any other member of the council or any member of an advisory panel regarding such grant application and such member shall not be present when such is considered by the council or panel.

COUNCIL MEMBERSHIP: QUORUM; MEETINGS

NEH

(d) The Council shall meet at the call of the Chairman but not less often than twice during each calendar year. Fourteen members shall constitute a quorum.

California

§ 8752. Meetings of council

The council shall meet at the call of the chairperson no more than eight times each calendar year. Unless there are extraordinary circumstances, all meetings are to be preceded by at least eight days public notice, and shall be held in various places throughout the state so as to encourage broad and diverse attendance.

Colorado

23-9-104. Meetings of council - quorum. The council shall meet at the call of the chairman, but not less than twice during each calendar year. Five members of the council shall constitute a quorum. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meeting of the council. The chairman shall vote only in case of a tie on any question voted on by the council.

Massachusetts

New York

North Carolina

A majority of the Council shall constitute a quorum for the transaction of business.

COUNCIL CHAIRMAN

NEH

(b) (1) The Endowment shall be headed by a chairman, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairman shall be four years, and the Chairman shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairman. Upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

California

(d) In January of each year, the members of the council shall select a chairperson.

Colorado

(3) The governor shall appoint a chairman of the council who is a person widely recognized for his knowledge, experience, and interest in the arts and humanities, as well as his knowledge of community and state interests. He shall serve at the pleasure of the appointing governor, but not longer than two consecutive terms, and shall not be eligible for reappointment during the two-year period following the expiration of his terms. He shall advise the governor with respect to the development in the arts and humanities in the state of Colorado. If any vacancy occurs in the office of chairman, the governor shall fill within sixty days the vacancy by the appointment of a qualified person in the same manner in which the original appointment was made.

COUNCIL CHAIRMAN

Massachusetts

The governor shall designate a chairman and vice chairman from the members of the council to serve as such at the pleasure of the governor. The council shall, by majority vote, approve for each year a program and a budget, and the chairman shall be the chief executive officer of the council to carry out such programs within the budget.

New York

The governor shall designate a chairman and a vice-chairman from the members of the council, to serve as such at the pleasure of the governor. The chairman shall be the chief executive officer of the council.

North Carolina

The Governor shall designate a member of the Council as chairman to serve at his pleasure.

COUNCIL MEMBERSHIP: COMPENSATION

NEH

(e) Members shall receive compensation at a rate to be fixed by the Chairman but not to exceed the per diem equivalent of the rate authorized for grade GS-18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

California

Members of the council shall receive one hundred dollars (\$100) per meeting and shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

Colorado

(4) Members of the council shall serve without compensation, but each member shall be reimbursed for his necessary traveling and other expenses incurred in the performance of his official duties.

Massachusetts

New York

3. The chairman shall receive compensation fixed by the governor and shall be reimbursed for all expenses actually and necessarily incurred by him in the performance of his duties hereunder, within the amount made available by appropriation therefor. The other members of the council shall receive no compensation for their services, but shall be reimbursed for all expenses actually and necessarily incurred by them in the performance of their duties hereunder within the amount made available by appropriation therefor.

North Carolina

Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

POWERS AND DUTIES

NEH

(f) The Council shall (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairman. The Chairman shall not approve or disapprove any such application until he has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving \$30,000 or less, the Chairman may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairman, and provided that each such action by the Chairman shall be reviewed by the Council: *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 11(a).

(c) The Chairman, with the advice of the National Council on the Humanities (hereinafter established), is authorized to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements (including contracts, grants, loans, and other forms of assistance) with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) award fellowships and grants to institutions or individuals for training and workshops in the humanities. Fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate non-profit institutions selected by the recipient of such aid, for stated periods of time;

(4) foster the interchange of information in the humanities;

(5) foster, through grants or other arrangements with groups, education in, and public understanding and appreciation of the humanities;

(6) support the publication of scholarly works in the humanities; and

(7) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons.

(d) The Chairman shall correlate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs.

(e) The Chairman may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.

ADMINISTRATIVE PROVISIONS

SEC. 10. (20 U.S.C. 959) (a) In addition to any authorities vested in them by other provisions of this Act, the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as he deems necessary governing the manner in which his functions shall be carried out;

(2) in the discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairman use other funds of that Endowment for the purposes of the gift, except that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under

the provisions of sections 6(f) and 8(f), and may receive a gift of \$15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 5(c) and 7(c);

(3) to appoint employees, subject to the civil service laws, as necessary to carry out his functions, define their duties, and supervise and direct their activities;

(4) to utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized by section 15 of the Administrative Expenses Act of 1948, as amended (5 U.S.C. 3109(b)); *Provided, however,* That any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic and culturally diverse representation;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

(b) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairman deems appropriate.

(c) The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of January of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

California

§ 8753. Duties of council

The council shall:

- (a) Encourage artistic awareness, participation and expression.
- (b) Help independent local groups develop their own art programs.
- (c) Promote the employment of artists and those skilled in crafts in both the public and private sector.
- (d) Provide for the exhibition of art works in public buildings throughout California.
- (e) Enlist the aid of all state agencies in the task of ensuring the fullest expression of our artistic potential.
- (f) Adopt regulations in accordance with the provisions of the Administrative Procedure Act necessary for proper execution of the powers and duties granted to the council by this chapter.
- (g) Employ such administrative, technical, and other personnel as may be necessary.
- (h) Fix the salaries of the personnel employed pursuant to this chapter which salaries shall be fixed as nearly as possible to conform to the salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.
- (i) Appoint advisory committees whenever necessary. Members of an advisory committee shall serve without compensation, but each may be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.
- (j) Request and obtain from any department, division, board, bureau, commission, or other agency of the state such assistance and data as will enable it properly to carry on its power and duties.
- (k) Hold hearings, execute agreements, and perform any acts necessary and proper to carry out the purposes of this chapter.
- (l) Accept federal grants, for any of the purposes of this chapter.
- (m) Accept only unrestricted gifts, donations, bequests, or grants of funds from private sources and public agencies, for any of the purposes of this chapter. However, the council shall give careful consideration to any donor requests concerning specific dispositions.
- (n) Establish grant application criteria and procedure.
- (o) Award prizes or direct grants to individuals or organizations in accordance with such regulations as the council may prescribe. In awarding prizes or directing grants, the council shall notify the offices of the legislators in whose district the recipient resides.

POWERS AND DUTIES

California

§ 8753.5. Grants and funding; programs established pursuant to chapter

The council shall not make any grants or fund any program which has not been established pursuant to the powers granted by this chapter.

§ 8755. Special recognitions

Upon nomination by the council, the Governor may grant special recognition to any citizen with exceptional talent who has made a unique contribution to the cultural or artistic heritage of the State of California.

§ 8755.5. Executive office; secondary offices

The executive or principal office of the Arts Council shall be located in the County of Sacramento. The council may establish one or more secondary offices in other locations within the state if it determines that such office or offices are needed to properly carry out the provisions of this chapter.

§ 8754. Director; deputies

The Governor shall appoint a director and two deputies for the Arts Council who shall serve at the pleasure of the Governor. The council may delegate to the director the responsibilities for carrying out council policy.

The director shall assist the council in the carrying out of its work, be responsible for the management and administration of the council staff, and perform other duties as directed by the council.

POWERS AND DUTIES

Colorado

23-9-105. Powers of the council. (1) The council has the powers necessary to carry out the duties imposed upon it by this article, including, but not limited to, the power:

(a) To employ such administrative, technical, and other personnel, subject to the constitution and state personnel system laws of this state, as may be necessary for the performance of its powers and duties;

(b) To hold hearings, make and sign any agreements, and perform any acts which may be necessary, desirable, or proper to carry out the purposes of this article;

(c) To request from any department, division, board, bureau, commission, or other agency of the state such reasonable assistance and data as will enable it properly to carry out its powers and duties under this article;

(d) To appoint such advisory committees as it deems advisable and necessary to the carrying out of its powers and duties under this article;

(e) To accept, on behalf of the state of Colorado, any federal funds granted by act of congress or by executive order for all or any of the purposes of this article and, upon appropriation by the general assembly, to expend such funds for the purposes set forth in the appropriation act;

(f) To accept any gifts, donations, or bequests for all or any of the purposes of this article;

(g) To propose methods to encourage private initiative in the arts and humanities;

(h) To advise and consult with national foundations and other local, state, and federal departments and agencies on methods by which to coordinate and assist existing resources and facilities, with the purpose of fostering artistic and cultural endeavors toward the use of the arts and humanities both nationally and internationally, in the best interest of Colorado.

ARTICLE 9

State Council on the Arts and Humanities

23-9-105. Powers of the council. (1) (e) To accept, on behalf of the state of Colorado, and expend any federal funds granted by act of congress or by executive order for all or any of the purposes of this article; except that the council may expend such funds only upon appropriation by the general assembly if the federal funds require matching state contributions or capital outlay or create a commitment for future state funding;

Source: Amended. L. 76, p. 573, § 1.

23-9-106. Duties of the council. (1) The duties of the council shall be:

(a) To stimulate and encourage throughout the state the study and development of the arts and humanities, as well as public interest and participation therein;

(b) To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources;

(c) To encourage and assist freedom of artistic expression essential for the well-being of the arts and humanities;

(d) To assist the communities and organizations within the state in originating and creating their own cultural and artistic programs;

(e) To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including, but not limited to, humanities, music, theater, dance, painting, sculpture, photography, architecture, and allied arts and crafts, and to make recommendations concerning the appropriate methods to encourage participation in and appreciation of the arts and humanities in order to meet the legitimate needs and aspirations of persons in all parts of the state;

(f) To submit a report to the governor not later than ninety days after the end of each fiscal year and at such other times as the governor requests or the council deems appropriate.

POWERS AND DUTIES

Massachusetts

§ 42. Encouragement and recommendations; annual estimates and reports

The council shall stimulate and encourage throughout the commonwealth the practice, study and appreciation of the arts and humanities in the public interest. The council shall make such reviews or surveys as it deems advisable of the facilities, activities, and needs of public and private institutions and organizations within the commonwealth concerned with the arts and humanities, including but not limited to theatre, music, opera, dance, poetry, architecture, painting, sculpture and allied arts and crafts. It shall encourage and make recommendations concerning the development on the local level of institutions and organizations which further the practice, study and appreciation of the arts and humanities in the interests of the citizens of the commonwealth. It shall annually submit to the budget commissioner the estimates required by sections three and four of chapter twenty-nine, and shall file an annual report as required by sections thirty-two and thirty-three of chapter thirty.

§ 43. Contracts and agreements; assistance from other agencies

The council may hold public and private hearings, may enter into contracts with individuals, organizations and institutions for services furthering the objectives of the council's program; may enter into contracts with local or regional associations for cooperative endeavors furthering the council's program; may accept gifts, contributions and bequests of funds from individuals, foundations and from federal, state or other governmental bodies for the purpose of furthering the council's program; may make and sign any agreements and may do and perform any and all acts which may be necessary or desirable to carry out the purposes of sections forty-one to forty-four, inclusive. The council may request from any department, division, board, bureau, commission or agency of the commonwealth such assistance and data as will enable it properly to carry out its powers and duties.

§ 44. Plan; administration of act; custody and expenditure of federal funds

This section and sections forty-one to forty-three, inclusive, shall constitute the plan of the commonwealth as required by the National Foundation on the arts and Humanities Act of 1965, (Public Law 89-209).¹ The council shall be the sole agency of the commonwealth for the administration of said Act. The state treasurer shall be custodian of funds received by the commonwealth under section 5(h) of said Act,² and said funds shall be expended solely by the council, without special appropriation, on projects and productions approved by it which carry out one or more of the objectives of section 5(c) of said Act.³

§ 45. Limitation of powers

Sections forty to forty-four, inclusive, shall not authorize any action by the council in contravention of the requirements of section 2 of Article XLVI of the Amendments to the Constitution.

POWERS AND DUTIES

Massachusetts

§ 41. Executive director; officers and employees; advisory committees

The council shall have an executive director with experience and a continuing interest in the arts and humanities, who shall be appointed by and serve at the pleasure of the chairman, and whose compensation shall be fixed by the chairman, all subject to the consent of a majority of the council. Subject to like consent of the council, the chairman may employ, remove and fix the compensation of such additional officers, experts and other employees as may be needed. The provisions of section nine A of chapter thirty and the provisions of chapter thirty-one shall not apply to the executive director or to such additional officers, experts and other employees. The chairman may, with the consent of a majority of the members of the council, from time to time, appoint such advisory committees to the council as he shall deem advisable.

New York

4. The chairman may appoint such officers, experts and other employees as he may deem necessary, prescribe their duties, fix their compensation and provide for reimbursement of their expenses within amounts available therefor by appropriation.

§ 528.¹ General powers and duties of council

The council shall have the following powers and duties:

1. To stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation therein;

2. To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including but not limited to, music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts, and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts to meet the legitimate needs and aspirations of persons in all parts of the state;

3. To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources;

4. To hold public or private hearings;

5. To enter into contracts, within the amount available by appropriation therefor, with individuals, organizations and institutions for services furthering the educational objectives of the council's programs;

6. To enter into contracts, within the amount available by appropriation therefor, with local and regional associations for cooperative endeavors furthering the educational objectives of the council's programs;

7. To accept gifts, contributions and bequests of unrestricted funds from individuals, foundations, corporations and other organizations or institutions for the purpose of furthering the educational objectives of the council's programs;

8. To make and sign any agreements and to do and to perform any acts that may be necessary, desirable or proper to carry out the purposes of this act.

§ 529.¹ Assistance of other agencies

To effectuate the purposes of this article, the council on the arts may request from any department, board, bureau, commission or other agency of the state, and the same are authorized to provide, such assistance, services and data as will enable the council properly to carry out its powers and duties hereunder.

POWERS AND DUTIES

North Carolina

Part 14. North Carolina Arts Council

§ 143B-87. North Carolina Arts Council — creation, powers and duties. —There is hereby created the North Carolina Arts Council with the following duties and functions:

- (1) To advise the Secretary of Cultural Resources on the study, collection, maintenance and dissemination of factual data and pertinent information relative to the arts;
- (2) To advise the Secretary concerning assistance to local organizations and the community at large in the area of the arts;
- (3) To advise the Secretary on the exchange of information, promotion of programs and stimulation of joint endeavor between public and nonpublic organizations;
- (4) To identify research needs in the arts area and to encourage such research;
- (5) To advise the Secretary in regard to bringing the highest obtainable quality in the arts to the State and promoting the maximum opportunity for the people to experience and enjoy those arts; and
- (6) To advise the Secretary of the Department upon any matter the Secretary may refer to it. (1973, c. 476, s. 77.)

All clerical and other services required by the Council shall be supplied by the Secretary of Cultural Resources. (1973, c. 476, s. 78.)

CONTROL OVER GRANTEES

NEH

(c) In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

Colorado

23-9-107. Interference by council prohibited. In carrying out its duties and powers under this article, the council shall never by action, directly or indirectly, interfere with the freedom of artistic expression of the established or contemplated cultural programs in any local community or institution, nor shall it make any recommendations that might be interpreted to be a form of censorship.

TRANSFER OF FUNCTIONS

Historical Note

New York

Effective Date. Section 12 of L. 1967, c. 181, provided that this section be effective June 1, 1967.

Transfer of Functions, etc. Laws 1967, c. 181, §§ 2-10, eff. June 1, 1967, provided:

"§ 2. All of the functions and powers possessed by and all the obligations and duties of the temporary state commission known as the New York state council on the arts, created by chapter three hundred thirteen of the laws of nineteen hundred sixty, entitled 'An act creating a temporary state commission, to be known as the New York state council on the arts, to make a comprehensive survey of the state's cultural resources and to make recommendations concerning appropriate methods to encourage participation in and appreciation of the arts, and making an appropriation for the expenses of such commission,' as amended by chapters two hundred thirty and three hundred forty-four of the laws of nineteen hundred sixty-two, are hereby transferred and assigned to, assumed by and devolved upon the council on the arts in the executive department.

"§ 3. Upon the transfer of functions to such council on the arts pursuant to this act [which added this Article], provisions shall be made for the transfer to such council of such officers and employees of such temporary state commission who are engaged in carrying out such functions as the chairman of such council on the arts may deem necessary for the exercise of the functions herein transferred to such council. Officers and employees so transferred shall be transferred without further examination or qualification and shall retain their respective civil service classifications and status. For the purpose of determining the employees holding permanent appointments in competitive class positions to be transferred, such employees shall be selected within each class of positions in the order of their original appointment, with due regard to the right of preference in retention of disabled and nondisabled veterans. Any such employee who, at the time of such transfer, has a temporary or provisional appointment shall be transferred subject to the same right of removal, examination or termination as though such transfer had not been made. Employees holding permanent appointments in competitive class positions who are not transferred pursuant to this section shall have their names entered upon an appropriate preferred list for reinstatement pursuant to the civil service law.

"§ 4. All appropriations or reappropriations heretofore made to such temporary state commission or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to and made available for use and expenditure by such council on the arts for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the chairman of such council on the arts for the same purpose of the comptroller. Payments for liabilities for expenses of personal service, maintenance and operation heretofore incurred by such temporary state commission, and for liabilities incurred and to be incurred in completing its affairs, shall also be made on vouchers or certificates approved by the chairman of such council on the arts on audit and warrant of the comptroller.

"§ 5. The chairman of such temporary state commission shall deliver to the chairman of such council on the arts all books, papers, records and property of such temporary state commission.

"§ 6. Such council on the arts shall be deemed and held to constitute the continuation of such temporary state commission, and not a different agency or authority.

"§ 7. All rules, regulations, acts, determinations and decisions of such temporary state commission, in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of such council on the arts until duly modified or abrogated by such council on the arts.

"§ 8. Any proceeding or other business or matter undertaken or commenced by or before such temporary state commission, and pending on the effective date of this act may be conducted and completed by such council on the arts in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by such temporary state commission.

"§ 9. Whenever such temporary commission or the chairman of such temporary state commission is referred to or designated in any law, contract or other document, such reference or designation shall be deemed to refer to such council on the arts or the chairman of such council on the arts, respectively.

"§ 10. No existing right or remedy of any character shall be lost, impaired or affected by reason of this act."

NEH AUTHORIZING LEGISLATION: STATE PROGRAMS

(f) (1) The Chairman, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grant-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities

which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2XA) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date of the enactment of the Arts and Humanities Act of 1930, as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairman finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the 'State agency') as the sole agency for the administration of the State plan;

(ii) provides that the chief executive of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph; and

(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairman may require.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures that four members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 20 per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairman shall be allotted at least \$200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairman for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairman; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairman in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5) (A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds \$125,000, but

(ii) which does not exceed 20 per centum of such allotment, shall be available, at the discretion of the Chairman, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairman for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term 'regional group' means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term 'State' and the term 'grant recipient' include, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census."

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c).

(7) Whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

(A) a group or grant recipient is not complying substantially with the provisions of this subsection;

(B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan or grant recipient application approved under this subsection; or

(C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid. the Chairman shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

CURRENT LAW
ON STATE ARTS COUNCILS AND STATE HUMANITIES COMMITTEES

NATIONAL ENDOWMENT FOR THE ARTS

NATIONAL ENDOWMENT FOR THE HUMANITIES

Agency: Designated or established
State agency

Matching: 50% of the total cost of
any project or production (source
not limited)

Requirements: (1) State agency is sole
agency for administration of program;

(2) funds paid to State will only
be used on projects approved by the
State agency;

(3) State agency will make reports
as required by Chairman.

Agency: OPTION

(A) (1) State appoints ~~a minimum of~~
50% of membership

OR

(B) (2) Grant recipient assures that at
least 2 members of its governing body
shall be appointed by appropriate
State officer or agency

Matching: Depends on option selected:

(1) If 50% State appointed--

--50% of the amount in excess of
\$100,000, from State funds, in first
year;

--100% of the amount in excess of
\$100,000, from State funds, in
second year (i.e. 50-50 match of
excess);

--100% of amount of Federal assist-
ance received by recipient (i.e.
50-50 match of all funds), from
State funds, in subsequent years.

(2) If existing Committee continued
with 2 appointed members, 50-50 match
of all Federal assistance received,
from any sources.

Requirements: (1) Grant recipient will
abide by optional appointment &
matching requirements;

(2) funds will be expended solely on
programs consistent with Act's
purposes;

(3) recipient has established a
membership policy to assure broad
public representation;

(4) it has a nomination process
to assure nomination of various
groups within the State;

(5) it has a regular membership
rotation process;

Use of NEH Chairman's Grant

Section 17 of the NFAH Act of 1965 as amended authorizes up to 10% of definite funds to be awarded by the Chairman without a recommendation from the National Endowment for the Humanities. Such grants can be made at a maximum of \$17,500 per grant and only pursuant to a delegation from the Council. Each grant must be reported to the Council for its review.

"The Arts and the Humanities Act of 1979", a draft bill to amend the basic Act, seeks to raise the limit from the \$17,500 established in 1973 to \$30,000, a more functional figure given the rate of inflation over the intervening years. As is evident from the listing of FY '79 Chairman's Grants, the \$17,500 figure is constantly approached, and with warrant, due to inflation. The increased maximum would permit response to requests that will be keeping pace with anticipated inflation over the five years covered by the legislation under consideration.

Requests are of three basic types:

- (1) requests on behalf of proposals that are not synchronized with deadlines due to factors beyond the applicant's control;
- (2) requests for assistance for credible ideas that do not comfortably fit guidelines, but should be encouraged;
- (3) requests to facilitate grants for credible application from underserved constituencies, while the reviewing process is monitored for possible remedy or amendment;
- (4) requests for grants that fall within established program areas and historically are expected by the Council to be awarded as Chairman's Grants.

Chairman's Grants, whether staff initiated or otherwise, are subjected to appropriate staff and/or outside review. Chairman's Grants likewise are only made in response to formal applications. While the law permits up to 10% of definite monies to be awarded through this mechanism, in FY '79 only 1.2% of authorized monies were so used. Such caution has been the consistent pattern since the 1973 legislation, an attitude unlikely to change since the authority to make those awards is delegated to the Chairman by the National Council on the Humanities.