Arts, Humanities, and Museums Amendments: Reports with Minority Views (1990): Report 06

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would like to be compensated during their lifetimes. Additionally, we wish to avoid the inflationary effect within Micronesia which would probably result from the payment of all claims at once; Micronesia's economy cannot easily absorb an unstructured input of $25-30 million in a short period.

This amendment would give the Secretary of the Interior the flexibility to make at least some payments prior to the adjudication of all claims and their certification by the Commission. It is our intention that as the claims are adjudicated and certified over the next three or four years, the Secretary will make at least partial payment on each. The exact percentage of such payments must, of course, take into consideration the total amount of awards made and claims yet to be adjudicated at any particular time: (For example, let us suppose that the total of awards made and claims yet to be adjudicated under Title I stands, at a certain point in time, at $40 million. Since the fund is limited to $10 million, no early payment would exceed 25 percent of the award.) Indeed, we would not expect any payments with the exception of the initial payments on death claims to be made until the completion of the claims filing period in October 1973. at which time it will be known the total amount of claims sought under each title of the Act. Final payments will not be made, of course, until it is determined how the total of claims awarded relates to available funds under each title of the Claims Act.

We believe that the use of a formula that varies according to conditions of the funds and the pending claims will meet fully with a chief purpose of the original Act—to insure that all claimants are treated equitably, if the amount of awards should exceed available funds. In addition, claimants will be compensated more quickly and the Micronesian economy will not be disrupted unnecessarily.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

John Ky.,
Assistant Secretary of the Interior.

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES AMENDMENT OF 1973
P.L. 93-133, see page 528

Senate Report (Labor and Public Welfare Committee) No. 93-100, Apr. 3, 1973 [To accompany S. 795]
House Conference Report No. 93-529, Sept. 27, 1973 [To accompany S. 795]

DATES OF CONSIDERATION AND PASSAGE
Senate May 2, October 4, 1973
House June 14, October 2, 1973

The Senate bill was passed in lieu of the House bill.
The Senate Report and the Conference Report are set out.

SENATE REPORT NO. 93-100

The Committee on Labor and Public Welfare, to which was referred the bill (S. 795) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments strike out all after the enacting clause and insert new matter in the nature of a substitute.

BACKGROUND

The National Foundation on the Arts and the Humanities was established in 1965 by Public Law 89-209. The original act was thereafter amended in 1967 by Public Law 90-348 and in 1970 by Public Law 91-346. The 1965 legislation created the National Foundation on the Arts and Humanities and its two cooperating entities, the National Endowment for the Arts and the National Endowment for the Humanities. Each Endowment has a presidentially appointed Chairman and Council who are responsible for program operation. The National Endowment for the Humanities and the National Endowment for the Arts have a joint administrative staff which reports to both chairmen.

Since enactment of the National Foundation on the Arts and the Humanities Act of 1965, the Federal involvement in, and support of cultural activities in both the arts and humanities areas, has broadened in scope and effectiveness.
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The committee considered two bills, S. 795 and S. 916. S. 795 represents proposals introduced by Senator Pell and co-sponsored by Senators Eagleton, Javits, Mondale, and Taft.

S. 916 contained proposals made by the Administration and introduced by Senator Javits, with Senators Eagleton, Mondale, Pell, and Taft as co-sponsors.

S. 795, as amended, contains the major features of the Administration's proposals and thus is an amalgam of the best features contained in the bills considered.

As the result of hearings held jointly between the Special Subcommittee on Arts and Humanities of the Committee on Labor and Public Welfare of the Senate, and the Select Subcommittee on Education of the Committee on Education and Labor of the House of Representatives, extensive and comprehensive testimony was received from the chairman of the two Endowments and from leaders in the States involved in the development of State programs in the arts and humanities areas, as well as comprehensive testimony from leading representatives of independent research libraries. The testimony emphasized the progress made to date by both Endowments and forms the basis for the increased levels of funding contained in the bill as approved by the Committee. The Committee commends the leadership abilities of Miss Nancy Hanks, Chairman of the National Endowment for the Arts, and of Dr. Ronald S. Berman, Chairman of the National Endowment for the Humanities, and of their respective 12-member private citizens' councils who continue to guide the programs toward increasing purpose.

Both Chairmen testified to the growing diversity of their programs and to the wider geographical distribution of these programs. Such growth is in keeping with the initial purpose of the legislation, to make the benefits of the arts and humanities available to all our citizens, while maintaining the criteria of quality and excellence.

The Committee, in its oversight role, noted with favor the efficient operation of both Endowments, and the involvement of panels of experts who aid the two Endowments and Councils in reaching their decisions, and which broaden the base of private citizen participation. It should be noted that the levels of funding for fiscal 1974 are consistent with proposals made by the Administration. These proposals did not specify total funding levels for subsequent years. Careful consideration was given to the amounts in S. 795 for fiscal 1975 and 1976.

For the three years, contained in the present reauthorization bill, these sums are as follows:

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<th>ARTS AND HUMANITIES</th>
<th>1974</th>
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<th>1976</th>
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It is noted that, on a per capita basis these amounts for each Endowment now represent approximately 40 cents per person per year in fiscal 1974, 70 cents per person per year in fiscal 1975 and $1 per person per year in fiscal 1976.

The Committee believes that these amounts represent a sound investment in the future well-being of our country, and that the broad cultural areas involved have a central significance to our nation's development, and to the encouragement of a climate in which the contributions of creative thought and expression, wisdom and the lasting achievements of the human mind and spirit, may flourish. It should also be emphasized that the funding levels recommended are in accord with the rate of growth to date, with the needs expressed by both Endowments reflecting the numbers of applications of high quality which they are presently unable to support, and with the basic principles that federal funds provide a most important incentive toward engendering greater private support.

National Endowment for the Arts

Since enactment in 1965, the National Endowment's authorizations have grown from $7,500,000 to $40,000,000 in fiscal year 1973. The increase in funds made it possible for the Endowment to work more effectively toward its Congressional mandate of encouraging the highest quality while making the arts more widely available. Highlights of development since the last reauthorization of the statute are:

- Assistance programs for museums, orchestras, opera companies, regional professional theatre and dance companies, and for community-based groups, professionally-directed and many with minority ethnic orientation (Expansion Arts Program).
- Jazz, too, is a new program endeavor.
- Fellowships are available to individuals of exceptional talent in painting, sculpture, crafts, literature (including playwrights), photography, music composition, jazz artists, librettists, museum professionals; also to outstanding opera singers and composers through the National Opera Institute and to exceptionally gifted filmmakers through the American Film Institute (both National Endowment for the Arts grantees).
- The National Endowment for the Arts funds also assist with fellowships, through institutions, for arts administration trainees and for participants in professional music and theatre training programs.
- New directions have been taken. The program formerly titled "Architecture, Planning, and Design" is now "Architecture + Environmental Arts" to reflect its new breadth of concern and scope of action. Also, the Endowment has moved to encourage and assist the growing trend toward regional programs through matching grants to regional groups, and coordinators to assist with planning, liaison, coordination, and information exchange among artists, State Arts Agencies, other governmental bodies, school systems, cultural organizations, and the Endowment.

Major emphasis has been placed on residencies—artists-in-schools; in colleges; in community centers. Touring programs, particularly in dance, have been augmented to make this exciting art form available throughout the country.

Each State Arts Agency's Federal-State Partnership (Sec. 5g) grant has grown from $36,363 to $127,250. And an important new thrust has
seen the State Agencies receiving significant additional funding under the Endowment's national programs (Sec. 5c).

The Endowment's impact has been extended into all States and regions of the Country through greatly expanded programs such as touring, media programming in the arts, and Works of Art in Public Places; its activities now affect millions of Americans heretofore unable to participate in cultural activities.

Professional advisory panels now play a major role in Endowment programming, with 185 individuals residing in 68 communities in 31 States assisting ten different Endowment programs, in addition to the expertise of the 26 Presidential-appointed members of the National Council on the Arts. Thus, the Endowment now has the benefit of professional advice from over 200 private citizen experts from all over the country.

As the result of a major Presidential initiative, the Endowment is now monitoring a range of activities aimed at up-grading design in the federal government, with State Agencies planning similar activities for their own States.

The Endowment has established an Evaluation Office, has stepped up information services through its Program Information Office, has produced and distributed a number of major publications, has commissioned and helped make available a series of films on Endowment programs (specifically Artists-in-Schools), has launched research efforts through a limited number of grants and contracts, and has secured a staff economist to investigate methods of increasing cash flows to artists and cultural groups.

**National Endowment for the Humanities**

Since its establishment, with authorizations equal to the Arts Endowment, the National Endowment for the Humanities has acted in an energetic and imaginative way to provide leadership to the humanities. It has undertaken the development of an educational concept, the participation and education of the American public generally toward the attention of humanities to questions of pressing social concern, and has broadened the base of support in the nation and Congress.

Drawing on the efforts of literally thousands of individuals in all fields of humanistic knowledge and from all types of educational, cultural, and community organizations, the Endowment has developed clear objectives and priorities, designed effective programs, established a sound organizational structure and efficient operating procedures, assembled a highly qualified staff, and thus laid the firm foundation needed to carry out a much higher level of activity.

The Endowment recently launched the Youth Grants in the Humanities program to encourage student and out-of-school youth to design and conduct serious work on a broad range of subjects involving both innovative and more traditional applications of the humanities.

While supporting promising experiments and strengthening instructional programs of higher education institutions, the Endowment has also given special attention to non-traditional study of the humanities; an especially innovative example is the "Courses by Newspaper" project, which during a 20-week period beginning in the fall of 1973, will provide newspaper readers in over 125 communities across the nation with an actual college-level course in American studies, offer-

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In the arts, and as well as personal enrichment.

Recognizing that the long-term health of the humanities requires continuing support for the discovery of basic knowledge and for the development of the teachers, scholars, and interpreters of the humanities, the committee, nevertheless, is pleased to note first, that the National Endowment for the Humanities research and fellowship awards have increasingly supported work on problems of broad national concern (e.g., the ethical and value questions resulting from biological and medical discoveries, the background of our urban and racial problems, the questions relating to our environment and the quality of American life) and, secondly, that the Endowment initiated this year a fellowship program directed at nonacademic professionals—lawyers, journalists, engineers, etc.—whose work and decisions have significant impact on our society and its institutions.

Efforts like these will extend the Endowment's reach, a reach which is already broad as is indicated by a few statistics from fiscal year 1972: grants have been made to more than a thousand institutions and individuals in all 50 States and three territories; film and television programs on American history and society have been viewed by millions; support has been provided for the work of thousands of professional scholars and teachers; and $3.5 million has been secured in private gifts from scores of individuals and organizations on behalf of Endowment-sponsored projects. In this regard, it is important to note that private gifts to the Endowment have in each of the last three years matched to the utmost limit the fund authority established by the Congress.

**Bicentennial Involvement**

The presentation of both the National Endowment for the Arts and the National Endowment for the Humanities had, as one of its major features, the future involvement of both Endowments in the nation's Bicentennial Celebration. Evidently growing out of an agreement between the Endowments and the Office of Management and Budget, the Endowments are expected to become a major factor in the Bicentennial Celebration.

Concern has been raised as to the effect that such a Bicentennial involvement would have on the activities of the Endowments. The underlying hallmark of Endowment funding to date has been quality. The addition of a Bicentennial factor could well bring about political pressures which would lessen the quality of Endowment grants. Each Chairman, in testimony, assured the Committee that there will be no change in funding procedures with respect to quality.

The Committee considered language limiting the Bicentennial involvement of each Endowment but did not adopt such language, because of the assurances provided. The Committee wishes to emphasize that the highest quality must be maintained by both Endowments and that in assessing applications such quality should continue to be the paramount factor involved. The Committee calls attention to a major purpose of the Act which is to encourage the development of a climate in which the arts and humanities may flourish. In this regard, long range goals are essential, rather than goals which relate to a specific period of time, no matter how important that given limited time period may be. With respect to the Endowments' work, the Committee
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believes that the Bicentennial should be considered in terms of lasting and abiding values, rather than in terms which have only temporary or limited meaning to future cultural growth.

CHAIRMAN'S GRANTS
Both the Endowment for the Arts and the Endowment for the Humanities supported an amendment changing the present language which authorizes a "chairman's grant" of up to $10,000, without the prior approval of the respective Council to $25,000 per grant. The Committee, while recognizing the time and effort the Councils expend on grants of such size, believes the very reason for success in encouraging high quality in the programs supported by the Art and Humanities Endowments is the result of this diligence and therefore modified the $25,000 figure. Recognizing, however, the present inflationary spiral, language is recommended which raises the present $10,000 "chairman's grant" to $15,000. A further limitation to the "chairman's grant" authority was a total limitation of 10 percent of the amount of program (sections 5(c) and 7(c)) funds which the Chairman could utilize for the "chairman grants". The 10 percent figure was adopted after study of the grant history of each Endowment. When consideration is given to the growth of authorization (sections 5(c) and 7(c)), 10 percent is an equitable amount.

INDIVIDUAL GRANTS
Testimony indicated that the percentage of individual grants made by the Arts Endowment to individuals not affiliated with organizations or institutions has diminished since the previous reauthorization of the legislation. This is a trend which the Committee hopes will be reversed in the future. One of the underlying reasons for adopting the initial legislation was to give individual assistance to those artists in all fields who may not be affiliated with a group. In this regard, it should be noted that in the hearing, there was discussion about the funding of deficits for arts groups and institutions. The Committee was assured that this has not been the practice in the past and will not be in the future.

It is urged that both Endowments give consideration to some type of recognition ceremony or appropriate written document for individuals and groups or organizations who have been selected for national recognition of achievement in the arts or the humanities. It is believed that such a document would serve as a permanent testimonial of achievement to supplement an official letter of grant which is at best only transitory.

RENOVATION AND CONSTRUCTION
Present law provides within the definition of "project" the authority for grants and contracts for renovation and construction of facilities by the Endowment for the Arts. The Committee, while not disapproving of any past activities of the Endowment for the Arts, adopted a provision which makes more specific the authority for renovation and construction.

In the case of renovation, the Committee notes with approval the policy of the Endowment which provides that all renovation grants

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will be awarded on the basis of at least $3 from non-Federal sources for every $1 from Federal sources.

The Committee recommends language which provides that renovation in excess of $250,000 must be approved by two-thirds of the National Council on the Arts in attendance at the meeting at which such project is discussed.

With regard to construction, while recognizing the proven need for construction throughout the country, the Committee recommends construction purposes or unusual circumstances where there is no other stration purposes or unusual circumstances where there is no other means in which to accomplish an artistic purpose. The granting of these

COUNCIL MEMBERSHIP

The Committee received correspondence relating to the membership of the National Council on the Arts alleging that one section of the Act proposed amendments to the National Endowment for the Arts which would have specified quotas for individual constituencies. Instead, it is recommended that the Council be truly representative of the arts, all interested groups and the Council to be truly representative of the arts, all interested groups

STATE ARTS AGENCIES

Testimony received emphasized the highly encouraging growth in scope, quality and effectiveness of State arts agencies. Under sections 5(e) and 10(a), a specific amount of matching funds is made available to State arts agencies, each State eligible for the made available to State arts agencies, each State eligible for the made available to State arts agencies, each State eligible for the made available to State arts agencies, each State eligible for the
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to be utilized as provided by section 5(c). The Committee considered language redirecting those funds, but declined to change the present statute. It is the continuing Committee view that should excess funds be available, they would be utilized in state or regional programs.

LABOR PROVISIONS AND REPORTS

The Committee received correspondence indicating that some programs supported by the Arts Endowment, within the performing arts area, do not yet fully comply to the labor provisions set forth in the Act (section 6(j)), with reference to minimum wage, other such benefits, and underlying conditions. The committee believes that the present language is adequate to protect all those involved. Those who may feel aggrieved at present are to be commended for their continuing desire to cooperate with the Endowment to correct any difficulties.

The committee requests the Endowment to conduct a study of this problem along with those studies requested in Senate Report number 91-879, which have not yet been carried out. The report stated:

The committee suggests that the Council consider additional similar studies in other areas; among those which have been suggested to the committee are the problems of the theater, profit as well as non-profit; how public policy, such as, for example, tax laws, affects the arts and the humanities; and the areas of manpower training and resources for the arts and the humanities.

STATE AND LOCAL HUMANITIES PROGRAMS

When the legislation was initially established, there was debate about the advisability of the mandatory establishment of State Humanities Councils. Language was not adopted. During the 1970 reauthorization hearings and in the report accompanying that legislation, the Committee urged that state-based humanities programs be funded on a demonstration level. The Committee notes with approval the work of the National Endowment for the Humanities in this area. From the initial six state programs there are now state-based programs in 40 states.

Witnesses representing state humanities programs were unanimous in their approval of the Humanities Endowment’s voluntary efforts and also unanimously expressed the opinion that the State Humanities programs will best develop at this time without mandatory provisions. The Committee therefore did not adopt mandatory language with the understanding that the Humanities Endowment would continue its exemplary work in encouraging the humanities activities at the state and local level.

INCLUSION OF THE INDEPENDENT RESEARCH LIBRARIES UNDER THE LIBRARY SERVICES AND CONSTRUCTION ACT

The National Endowment for the Humanities has been supportive of the independent research libraries throughout the nation. There are approximately 20 of these libraries which are defined as libraries whose resources are available to the public free of charge, which are not an integral part of an institution of higher education, which have extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries and engage in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities.

The Committee has been aware of these libraries and has declined to consider the issue in this context. The Committee would consider the issue in the future if the present situation were changed.

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In accordance with Section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress) the Committee
The President's overall budget for Fiscal Year 1977. As noted above, we support indefinite authorizations contained in S. 916.

Furthermore, Section 2 of S. 795 would add a new clause (3) to subsection 11(b) of the NFHA Act which would authorize forward funding—it would authorize inclusion in the Fiscal Year 1974 appropriation bill of appropriations for both Fiscal Year 1974 and Fiscal Year 1975, and inclusion in the Fiscal Year 1975 appropriation bill of appropriations for both Fiscal Year 1975 and Fiscal Year 1976. The Administration believes this forward funding provision, as well as automatic extension of authorization levels, to be unwise. It limits both the Congress and the President in determining appropriate funding levels, in contrast with the necessary and desirable flexibility provided in S. 916, which would continue reliance on the appropriations process.

Section 3 of S. 795, dealing with Regional Arts Programs, would provide that all amounts allocated among the States during a fiscal year, and not actually granted to them prior to 60 days before the end of the fiscal year, shall be granted to combinations of States in accordance with standards established by regulations issued by the National Council to pay not more than 66 2/3 per centum of the cost of carrying out regional projects and productions meeting objectives of Section 5(c).

The National Council on the Arts and the National Endowment for the Arts strongly support efforts toward regional development in areas that are apparently in need. As a matter of fact, it is because we do believe in the importance of such efforts that the Endowment is opposed to this amendment. In our view it would be restrictive rather than helpful in achieving national objectives. For example: (1) it would appear to delay any regional planning until 60 days before the end of the fiscal year, when in fact regional planning requires a longer lead time than state activity; (2) it would appear to indicate that regional planning would be undertaken with money "left over" whereas we believe a far more positive approach is needed; and (3) if funding is provided in the block grants to State arts agencies at realistically rising levels, experience has proven that there will be little monies returned at the end of the year—(e.g. in Fiscal Year 1972, $24,000 was returned from four State agencies and it is estimated that in Fiscal Year 1973, $18,000 will be returned from perhaps five agencies). The Administration's bill would provide that sums appropriated for 5(g) purposes would be available for States or regional groups. This would mean that regional projects could move forward in an orderly manner during the fiscal year as programs are developed by the State agencies for the benefit of an entire region.

Further, although we strongly favor regional cooperation among the States and other groups and intend to support such cooperative efforts, we are opposed to any change in the principle set forth in the original legislation of Federal government support being matched at least dollar for dollar by private or other sources, except in very unusual circumstances. We have in our judgment the needed flexibility in our current legislation to meet these unanticipated needs and to utilize 20% of our 5(c) funds on a non-matching basis or at least a dollar for dollar match. Also, as you know, the Administration bill would authorize the States agencies to administer in their discretion up to 20% of their funds in a non-matching manner. This
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would provide for flexibility at the State and regional levels, but would not force the States to adopt a Federally enforced funding schedule.

We appreciate the opportunity to comment on the proposed legislation.

The Office of Management and Budget has advised us it has no objection to the submission of this report and that enactment of S. 916 would be in accord with the program of the President.

Sincerely yours,
RONALD S. BERNAN,
Chairman, National Endowment for the Humanities.

NANCY HANKS,
Chairman, National Endowment for the Arts.

SECTION-BY-SECTION ANALYSIS

Section 1. (Short title)

The first section of the bill contains the short title for the bill. This section provides that the bill may be cited as the “National Foundation on the Arts and the Humanities Amendments of 1973”.

Section 2. Amendments to the National Foundation on the Arts and the Humanities Act of 1965

This section contains two subsections; subsection (a) amends the National Foundation on the Arts and the Humanities Act of 1965 (hereafter in this analysis referred to as the “Act”); and subsection (b) contains the effective date for the amendments made by section (a).

Subsection (a) of section 2 contains eleven paragraphs which amend sections 2 , 3 , 5 , 6 , 7 , 8 , 9 , 10 , and 11 of the Act and repeal sections 13 and 14 of the Act.

Paragraph (1) of subsection (a) amends section 2 of the Act. Such section 2 contains a statement of findings and declarations of the Congress. Clause (7) of such section 2 states that it is desirable to establish a National Foundation on the Arts and the Humanities and to strengthen the responsibilities of the Office of Education with respect to education in the Arts and the Humanities. The amendment made by paragraph (1) deletes from such clause (7) all reference to the Office of Education. This amendment is conforming with the repeaters contained in paragraph (11) of section 2(a) of the bill.

Paragraph (2) of subsection (a) amends section 3 of the Act. Such section 3 contains the definitions of terms used in the Act. Subsection (d) of such section 3 defines the term “project” as meaning programs organized to carry out the purposes of this Act, 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, purchase, renovation, or construction of facilities, purchase or rental of land, and acquisition of equipment.

The amendments made by paragraph (2) of subsection (a) of the bill (1) delete references to renovation and construction of facilities in the definition and (2) add to the definition a new sentence relating to special conditions for renovation and construction.

The new sentence contains an introductory statement and two clauses, numbered (1) and (2). The introductory statement includes:

within the definition of “projects” two activities described and governed under clauses (1) and (2).

Clause (1) of such new sentence includes within the definition of “projects” the renovation of facilities under one of two circumstances. The first circumstance under which a project may include renovation is the total amount of Federal funds for the cost of facilities is, if the total amount of Federal funds for the cost of renovation of facilities, in the case of a particular project, does not exceed $250,000.

The second circumstance under which a project may include renovation is the total amount of Federal funds for the cost of facilities relates to special actions of the National Council on the Arts in approving a specific grant or contract which involves Federal expenditures for the renovation of facilities. Under existing law, the Chairman of the National Endowment for the Arts may not disapprove a grant or contract under section 5(c) of the Act unless he disapproves it.

The activities for which provision may be made or for which support may be given are described in clauses (1) through (5) of such subsection (c).

Subparagraph (A) of such paragraph (3) amends that part of subsection (c) which precedes clause (1) thereof by deleting the requirement that the Chairman have the advice of the Federal council on the Arts and the Humanities in making grants and contracts.

Subparagraph (B) of such paragraph (3) amends clauses (1), (2), and (3) of such subsection. Under existing law, such clauses (1) and (2) authorize productions, while such clause (3) authorizes projects.

The amendments made by such subparagraph (B) authorize both projects and productions under each of the three clauses.

Subparagraph (C) of such paragraph (3) amends clause (5) of such subsection (c). Under existing law, such clause (5) authorizes other projects, within the definition of “project” not specifically described projects, which are relevant to those so described, in the preceding clauses, which are relevant to those so described. Such other projects may include surveys, research, and planning in the arts. The amendment made by such subparagraph (C) provides.
that such other projects may include surveys, research, planning, and publications where such activities relate to the other purposes of subsection (c).

Subparagraph (D) of such paragraph (3) adds a new sentence to subsection (c) of section 5 of the Act. The preceding amendment to clause (3) of subsection (c) gives the Endowment authority to set the application date. The new sentence added by subparagraph (D) creates a limited exception from section 501 of title 44, United States Code for the publication authority added under such clause (3).

Such section 501 requires that Government publications be carried out through the Government Printing Office. The exemption is available if two conditions are met: (1) the Chairman of the National Endowment for the Arts consults with the Joint Committee on Printing of the Congress; and the Chairman must submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, which report must justify the use of the exemption.

Subparagraph (4) of subsection (a) amends subsection (g) of section 5 of the Act. Such subsection (g) authorizes grants to the States for arts programs. Under existing law, the Chairman of the National Endowment for the Arts is authorized, with the advice of the National Council on the Arts, to make grants to the States for arts programs; the States must apply for grants and have a State agency for the administration of the National Endowment for the Arts' arts programs; such programs must meet the standards of the National Program under section 5(c); the funds appropriated for the State programs are allotted among the States in equal shares; except that Guam and American Samoa are each limited to $65,000; and the allotments to the States may not be used to pay more than 50 per cent of the cost of any project or production assisted under any such arts program. Any funds available to the States which are not used by them are available at the end of the fiscal year for non-Federal sources.

Subparagraph (A) of such paragraph (3) amends paragraph (1) of section 5(g) of the Act to delete the requirement that the Chairman have the advice of the Federal Council on the Arts and the Humanities in the administration of the States arts program.

Subparagraph (B) of such paragraph (3) makes a technical amendment and grants to the Chairman of the National Endowment for the Arts the authority to specify the application date for the States. The amendment made by clause (i) of subparagraph (B) makes clear that the assistance to which reference is made in that part of paragraph (2) of such subsection (g) which precedes clause (A) is the assistance under such subsection. With respect to the amendment made by clause (ii) of such subparagraph (B), present law requires that applications from the States be submitted prior to the first day of the fiscal year for which application is made. The amendment gives the Chairman the authority to set the application date.

Subparagraph (C) of such paragraph (3) amends paragraphs (3) and (4) of such section 5(g). Such paragraphs (3) and (4) relate to allotments among States and the Federal share of the cost of projects and production. Paragraph (3) of section 5(g), under existing law, provides that all sums appropriated for the purposes of subsection (g) of section 5 of the
of the Council. Clause (B) of paragraph (5) adds a proviso which limits the obligations for expenditure of funds under applications for projects and productions funded pursuant to applications approved and disapproved under the delegation provided for under such third sentence for any fiscal year to 10 per centum of an amount equal to the amount appropriated for such fiscal year pursuant to subparagraph (A) of paragraph (1) of section 11(a), the authorization of appropriations for the purposes of section 5(c).

Subparagraph (6) of such subsection (a) contains amendments to section 7 of the Act. Such section 7 provides for the establishment and operation of the National Endowment for the Humanities with authority similar to that for which provision is made under section 6 of the Act for the National Endowment for the Arts, except that there is no specific provisions for State programs as is provided under section 5(g) of the Act.

Subparagraph (A) of paragraph (6) makes the same amendments with respect to the humanities as is made with respect to the arts by paragraph (A) of paragraph (3).

Subparagraph (B) of paragraph (6) amends clause (2) of section 7(c) of the Act. Such clause (2) includes, among other types of assistance, the authority to make loans. The amendment made by such subparagraph (B) makes clear that any such loans must be made in accordance with terms and conditions approved by the Secretary of the Treasury.

Subparagraph (C) of paragraph (6) amends clause (6) of section 7(c), which clause (6) authorizes support for the publication of scholarly works in the humanities without regard for the requirement that the publications must be printed by the Government Printing Office. Such subparagraph (C) deletes the exemption from the Government Printing Office requirement.

Subparagraph (D) of paragraph (6) adds a new sentence to section 7(c) of the Act. Such new sentence exempts publications of the National Endowment for the Humanities from the Government Printing Office printing requirement under the same conditions as the Arts Endowment is so exempted by the amendment made by subparagraph (D) of paragraph (3) of section 2(a) of the bill.

Paragraph (7) of such section 2(a) amends section 8 of the Act. Such section 8 provides, with respect to the National Council on the Humanities, authority comparable with that provided by section 6 for the National Council for the Arts. Subsection (f) of section 8 sets forth the functions of the National Council on the Humanities. The amendments made by paragraph (7) alter the authority of the National Council on the Humanities in the same manner as the authority of the National Council on the Arts is altered by the amendments made by paragraph (5) of section 2(a) of the bill.

Such section 8(b) specifies the membership of the Federal Council on the Arts and the Humanities. Paragraph (8) amends such section to add two new members to the Federal Council: the Commissioner, Public Buildings Service, General Services Administration, and a member to be nominated by the Secretary of the Interior.

Paragraph (9) of such section 2(a) amends section 10 of the Act. Such section 10 contains the administrative provisions for the two Endowments established under the Act. Clause (2) of subsection (a)
LEGISLATIVE HISTORY
P.L. 93-133

Section 8. Amendment to the Library Services and Construction Act, including Research Libraries in the Definition of “Public Library”

This section amends section 3(5) of the Library Services and Construction Act to include, within the meaning of the term “public library,” research libraries.

Subsection (a) of such section 3 contains the amendment, while subsection (b) of that section contains the effective date for the amendment. Such subsection (a) adds a new sentence to section 3(5) of the Act. Such new sentence provides that the Library Services and Construction Act includes a research library; and defines the term “research library” for the purposes of its inclusion.

A research library is a library which meets all four of the criteria set forth in clauses (A), (B), (C), and (D) of the new sentence. Clause (A) of the new sentence requires that, in order to be classified as a research library, a library must make its services available to the public free of charge.

Clause (B) of such sentence requires that, in order to be so classified, a library must have extensive collections of books, manuscripts, and other materials suitable for scholarly research and that such collections are of a type which are not available to the public through public libraries. The term “public library” in the new sentence is used in the same sense as such term is defined in the first sentence of such section 3(5) prior to the addition of the new sentence.

Clause (C) of such new sentence provides that, in order to be so classified, a library must engage in the dissemination of humanistic knowledge through services to readers, fellowships, educational, and cultural programs, publications of significant research, and other similar activities.

Clause (D) of the new sentence provides that, in order to be so classified, a library may not be an integral part of an institution of higher education.

Subsection (b) of such section 3 contains the effective date for the amendment made by subsection (a) of such section. Subsection (b) provides that the amendment made by subsection (a) shall be effective—

(1) on June 30, 1973; and
(2) then only with respect to appropriations under the Library Services and Construction Act for the fiscal years beginning after June 30, 1973.

CONFERENCE REPORT NO. 93-259

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 735) to amend the National Foundation on the Arts and Humanities Act of 1965, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement adopts an amendment which is a substitute for both the Senate bill and the House amendment. The dif-
LEGISLATIVE HISTORY
P.L. 93-133

The Senate bill provides beginning in fiscal year 1975 for a single authorization to carry out section 5(c) (General Art Grants) and section 5(g) (State and Regional Art Programs). The Senate recedes.

The House amendment provides that not less than 20 percent of the funds appropriated for section 5 shall be used to carry out section 5(g). The Senate recedes.

The House amendment also provides that of the sums reserved for section 5(g), 75 percent is to be allotted among the States in equal amounts, and 25 percent is to be available to the Chairman for making grants under subsection (g) to States and regional groups, except that in no event shall be a $200,000 minimum allotment. If insufficient funds are appropriated to meet this $200,000 minimum allotment, each State is to be allotted an equal amount. If the amount appropriated is sufficient to meet the $200,000 minimum State allotment but is insufficient to provide the Chairman with an amount equal to 25 percent of the total amount available for section 5(g), then the full amount in excess of the amount necessary to meet the $200,000 minimum State allotment is available only to the Chairman for making grants to States and regional groups. The Senate recedes with a clarifying amendment to assure that each State receive at least $200,000 before any moneys are available to the Chairman for making grants to States and regional groups.

The Senate bill provides that that part of any State's allotment which exceeds $125,000 and is not in excess of 20 percent of such State's total allotment is to be exempted from the 50 percent matching requirement. The House amendment exempts 20 percent of the total of a State's allotment from the matching requirement of that State, if the State matches its minimum allotment of $200,000. The conference agreement retains the Senate provision. The Conference wish to stress that the waiver of matching is applicable only to the amounts allotted to the States. Matching may not be waived at any time with respect to grants made by the Chairman to the States and regional groups.

The Senate bill provides that the discretion to expend funds without regard for the matching requirement be the State's, while the House amendment gives that authority to the Chairman. The Senate recedes.

Under existing law, any funds available to the States under section 5(g), which are not used by the States revert to the Chairman to be used under section 5(c) (the regular endowment program). The Senate bill leaves this provision unchanged. The House amendment provides that amounts allotted to the States which are unused sixty days prior to the end of a fiscal year shall be available for grants to regional groups. Any funds then remaining revert to the Chairman under existing law. The Senate recedes, and the conference agreement adopts a definition of regional groups under which such groups need not be representative of contiguous States.

Grants without Council Recommendation.—Under existing law, Chairman of the Endowments may make grants not in excess of $10,000 without the recommendations of their respective Councils. The Senate bill raises the $10,000 limit on such grants to $15,000, while the House amendment raises that limit to $20,000. The conference agreement raises such limit to $17,500.

ARTS AND HUMANITIES AMENDMENTS
P.L. 93-133

The Senate bill limits construction authority by requiring that—
(1) there be a finding that the construction involved in the project either is for demonstration purposes or is a project in which there is no other means by which the artistic purpose of the project may be accomplished; and
(2) two-thirds of the National Council on the Arts, who are present and voting, approve of the project.

The House amendment makes no provision for approval of a project involving construction by two-thirds of the Council. The House recedes.

Expanding availability of arts and humanities programs.—The Senate bill, but not the House amendment, provides authority for the Arts and Humanities Endowments to support programs in areas where citizens do not have access to such programs for geographical or economic reasons. The conference agreement adopts the provisions of the Senate bill.

Publications without regard for rules of the Joint Committee on Printing.—Under existing law, Government publications must be published under the auspices of the Government Printing Office. The National Endowment for the Humanities has, under existing law, an exemption from the Government Printing Office printing requirements, while the National Endowment for the Arts does not.

The Senate bill amends both such provisions of the National Foundation on the Arts and the Humanities Act of 1965, providing that both the Endowments may have an exemption from the Government Printing Office printing requirement if the Chairman consults with the Joint Committee on Printing and submits to the Committee on Education and Labor of the House and the Committee on Labor and Public Welfare of the Senate a justification of the exemption. The House bill makes no substantial change in existing law. The House recedes.

Allotment of funds appropriated to the National Endowment for the Arts for grants to States under section 5(s) —The Senate bill allocates 100 percent of the appropriation for section 5(g) to the States. The Senate authorization figures break down, per State, as follows: fiscal year 1974, $200,000; fiscal year 1975, $350,000; fiscal year 1976, $500,000.
LEGISLATIVE HISTORY

P.L. 93-133

Use of State humanities agencies.—The Senate bill, but not the House amendment, requires the Chairman of the National Endowment for the Humanities to correlate programs of that Endowment with State humanities agencies, to the extent practicable. The House recedes.

Membership of the Federal Council on the Arts and Humanities.—The Senate bill, but not the House amendment, expands the membership of the Federal Council on the Arts and the Humanities to include a member designated by the Senate Committee on Arts and Antiquities and a member designated by the Speaker of the House. The conference agreement adopts the provision of the Senate bill, with the understanding that the term “member” refers to a member of the Federal Council on the Arts and the Humanities, and not to a Member of the House or Senate (although a Member of the House or Senate may be designated a member of such Council by the appropriate authority).

Geographical representation of advisory panel.—Existing law authorizes the Chairmen of the Endowments to utilize experts and consultants. The House amendment, but not the Senate bill, requires that any advisory panel appointed under such authority to review or make recommendations with respect to the approval of applications or projects have broad geographic representation. The Senate recedes.

Authorization of appropriations.—The Senate bill and the House amendment provide authorizations for the Endowments as indicated in the following chart:

<table>
<thead>
<tr>
<th>[In millions of dollars and fiscal years]</th>
<th>1974</th>
<th>1975</th>
<th>1976</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Senate</td>
<td>House</td>
<td>Senate</td>
</tr>
<tr>
<td>Sec. 5(c)</td>
<td>59</td>
<td>54</td>
<td>105.75</td>
</tr>
<tr>
<td>Sec. 5(d)</td>
<td>11</td>
<td>11</td>
<td>19.25</td>
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<tr>
<td>Sec. 5(e)</td>
<td>20</td>
<td>65</td>
<td>125.00</td>
</tr>
<tr>
<td>Sec. 100(c)</td>
<td>20</td>
<td>15</td>
<td>30.00</td>
</tr>
</tbody>
</table>

1 Not less than 20 percent of the total amount appropriated to carry out secs. 5(c) and 5(d) may be used only to carry out sec. 5(e).

The conference agreement provides such authorizations as indicated in the following chart:

<table>
<thead>
<tr>
<th>[In millions of dollars and fiscal years]</th>
<th>1974</th>
<th>1975</th>
<th>1976</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>1974</td>
<td>1975</td>
<td>1976</td>
</tr>
<tr>
<td>Sec. 5(c)</td>
<td>54</td>
<td>190</td>
<td>113.5</td>
</tr>
<tr>
<td>Sec. 5(d)</td>
<td>11</td>
<td>(0)</td>
<td>(0)</td>
</tr>
<tr>
<td>Sec. 5(e)</td>
<td>65</td>
<td>90</td>
<td>113.5</td>
</tr>
<tr>
<td>Sec. 100(c)</td>
<td>15</td>
<td>20</td>
<td>25.0</td>
</tr>
</tbody>
</table>

1 Not less than 20 percent of the amount appropriated to carry out sec. 5(c) may be used only to carry out sec. 5(d).

It is the position of the conference agreement that the equality in authorization between the National Endowment for the Arts and the National Endowment for the Humanities, which has been present in the National Foundation on the Arts and the Humanities Act of 1965 since its enactment, has been maintained in such agreement, with the hope and the expectation that appropriations for the two endowments will be approximately equal.

INDIANS—JUDGMENTS—FUNDS

P.L. 93-134

Contingent extension of authorization of appropriations.—The Senate bill contains language which provides that, unless the Congress passes or formally rejects legislation extending the authorizations of appropriations under the bill, each of the authorizations of appropriations is automatically extended for one fiscal year. The House amendment contains no comparable provision. The Senate recedes.

Research libraries.—The Senate bill, but not the House amendment, amends the Library Services and Construction Act to include in its definition of public libraries research libraries. The conference agreement adopts this provision of the Senate bill.

CARL D. PERKINS,
JOHN BRADemas,
PATSY T. MINK,
LLOYD MEEDs,
S. CHISHOLM,
ALBERT H. QUIE,
OYRAL HANSEN,
Managers on the Part of the House.
CLAIBORNE PELL,
GAYLORD NELSON,
TOM EAGLETON,
WALTER F. MONDALE,
JACOB K. JAVITs,
ROBERT TAFT, Jr.,
Managers on the Part of the Senate.

INDIANS—JUDGMENTS—DISTRIBUTION OF FUNDS

P.L. 93-134, see page 553

Senate Report (Interior and Insular Affairs Committee) No. 93-167, May 21, 1973 [To accompany S. 1016]


DATES OF CONSIDERATION AND PASSAGE

Senate May 22, October 8, 1973
House October 1, 1973

The Senate bill was passed in lieu of the House bill after substituting for its language the text of the House bill.

The House Report is set out.

HOUSE REPORT No. 93-377

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 8029) to provide for the distribution of funds appropriated in satisfaction of certain judgments of the Indian
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES AMENDMENTS OF 1973

For Legislative History of Act, see p. 2289

PUBLIC LAW 93-133; 87 STAT. 461
[8. 725]

An Act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

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

Sec. 2. (a) The National Foundation on the Arts and the Humanities Act of 1965 is amended in the following respects:

(1) Clause (7) of section 2 of such Act 7 is amended by striking out all that appears after “a National Foundation on the Arts and the Humanities” and inserting in lieu thereof a period.

(2) Subsection (d) of section 3 of such Act 8 is amended by striking out “, purchase, renovation, or construction” and inserting in lieu thereof “or purchase”, and by adding at the end thereof the following new sentence: “Such term also includes—

“(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

“(2) the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic purpose, and (B) two-thirds of the members of the National Council on the Arts (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.”

(3) (A) That part of subsection (c) of section 5 of such Act which precedes clause (1) 9 is amended by striking out “the Federal Council on the Arts and the Humanities and”.

(B) In clauses (1) and (2) of subsection (c) such Act 10 is amended by striking out “production” each time it appears and inserting in lieu thereof “projects and productions”; and, in clause (3) of such subsection, such Act 11 is amended by striking out “projects” and inserting in lieu thereof “projects and productions”.

(C) Clause (2) of such subsection (c) 12 is further amended by striking out “in many areas of the country” and inserting in lieu thereof “for geographic or economic reasons”.

(D) Clause (5) of such subsection (c) 13 is amended by striking out “and planning in the arts” and inserting in lieu thereof “, planning, and publications relating to the purposes of this subsection”.

(E) Such subsection (c) 14 is amended by adding at the end thereof the following new sentence: “In the case of publications under clause (5) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.”.

(4) (A) Paragraph (1) of subsection (g) of section 5 of such Act 15 is amended by striking out “the Federal Council on the Arts and the Humanities and”.

(B) That part of paragraph (2) which precedes clause (A) of such subsection (g) 16 is amended (i) by striking out “such assistance” and inserting in lieu thereof “assistance under this subsection” and (ii) by striking out “prior to the first day of such fiscal year” and inserting in lieu thereof “at such time as shall be specified by the Chairman”.

(C) Clause (B) of paragraph (2) of such subsection (g) 17 is amended by striking out “except that in the case of the first fiscal year in which the State is allotted funds after the enactment of this Act, a plan may provide that not to exceed $25,000 of such funds may be expended to conduct a study to plan the development of a State agency in the State and to establish such an agency”.

(D) Such subsection (g) 18 is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

“(3) Of the sums available to carry out this subsection for any fiscal year, each State 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 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) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairman for...
(D) Such subsection (c) is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and", and by adding after paragraph (6) the following new paragraph:

"(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.

(E) Such subsection (c) is further amended by adding at the end thereof the following new sentence: "In the case of publications under clause (6) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 United States Code, only if the Chairman consults with the Joint Committee on Printing of the Congress and the Chairman submits to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501."

(7) Section 9(b) of such Act is amended, in the third sentence thereof—

(A) by striking out "$10,000" and inserting in lieu thereof "$17,500"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof the following: "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)."

(8) Section 9(b) of such Act is amended to read as follows:

"(b) The Council shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the United States Commissioner of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, a member designated by the Secretary of State, and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the Chairman of the Council from among the members.

The President is authorized to change the membership of the Council from time to time as he deems necessary to meet changes in Federal programs or executive branch organization."

(9) Clause (2) of subsection (a) of section 10 of such Act is amended by inserting after "purposes of the gift" the following:

"(b) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available 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 purpose of paragraph (3) and paragraph (4) of this section the term 'regional group' means an interstate group, whether or not representative of contiguous States.

(E) Paragraph (5) of such section (g) is amended by inserting after "allotted" the following: "or made available".

(5) Subsection (f) of section 6 of such Act is amended, in the third sentence thereof—

(A) by striking out "$10,000" and inserting in lieu thereof "$17,500"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof the following: "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)."
be used only for the purpose of carrying out section 5(g).

"(B) For the purposes of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $65,000,000 for the fiscal year ending June 30, 1974, $90,000,000 for the fiscal year ending June 30, 1975, and $113,500,000 for the fiscal year ending June 30, 1976.

"(2) There are authorized to be appropriated for each fiscal year ending prior to July 1, 1976, to the National Endowment for the Arts and to the National Endowment for the Humanities, an amount equal to the total amounts received by each Endowment under section 10(a)(2), except that the amount so appropriated for any fiscal year shall not exceed the following limitations:

"(A) For the fiscal year ending June 30, 1974, $15,000,000.

"(B) For the fiscal year ending June 30, 1975, $20,000,000.

"(C) For the fiscal year ending June 30, 1976, $25,000,000.

"(b)(1) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.

"(2) In order to afford adequate notice to interested persons of available assistance under this Act, appropriations authorized under subsection (a) are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation."
developing the same critical backlog that has developed in the severely overworked Fifth Circuit.

4. 10th Circuit

This circuit of six judges last received an additional judge in 1961. The total caseload per judgeship is 91 as compared with the national average of 74, and the refined caseload per judgeship is 64 as compared with the national average of 62. The projection for refined caseload per judgeship for 1972 is 80.

The backlog in this circuit rose from 135 cases in fiscal 1960 to 400 cases at the beginning of fiscal 1967. During fiscal 1967 the court was able to reduce its backlog to 354 cases, but this was the result of a special drive that enlisted the assistance of visiting judges, and more than 31 percent of the workload in fiscal 1967 was handled by outside help. In fiscal 1966, about 13 percent of the docket was handled by visiting judges. The circuit has been able to maintain reasonable promptness in the disposition of cases, and the median time is less than 6 months, somewhat below the national average. Only one case on the docket has been pending for more than 3 months.

Your committee believes that an additional judge is needed in the 10th Circuit at this time to permit the circuit to hold its own in the face of rising caseloads. In fiscal 1967 there were 100 appeals per judgeship commenced in this circuit as compared with the national average of 90.

EDUCATION—ARTS AND THE HUMANITIES

P.L. 90-945, see page 223


Conference Report No. 1511, June 3, 1968 [To accompany H.R. 11308]

Cong. Record Vol. 114 (1968)

DATES OF CONSIDERATION AND PASSAGE

House Feb. 27, June 5, 1968

Senate May 7, May 29, 1968

The Senate Report and the Conference Report are set out.

SENATE REPORT NO. 1103

THE Committee on Labor and Public Welfare, to which was referred the bill (H.R. 11308) to amend the National Foundation on the Arts and the Humanities Act of 1965, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.
LEGISLATIVE HISTORY

Foundation on the Arts and the Humanities Act of 1965, joint hearings were conducted on July 12 and 13, 1967, by these same subcommittees. Thereafter, the Senate Special Subcommittee on Arts and Humanities held 2 days of hearings on August 15 and 16, 1967.

Witnesses at the joint hearings were enthusiastic about the achievements of the National Endowment for the Arts and the National Endowment for the Humanities during the past 3 years. Discussion then turned to the present status of the arts and humanities in our country, and the need for increased Federal support. There was general agreement among the witnesses that, during their first years of operation, each Endowment had fully carried out its mandate as set forth by the Congress. It was also noted that the present efforts, while admirable, do not begin to meet the need for Federal support of the arts and humanities.

In the area of the humanities, the extent of the need can be seen in the quantity of applications received by the National Endowment for the Humanities. Applications totaling $56.8 million were received in fiscal 1967, but the total sum available for program expenditures was $4.5 million.

The same pattern is present in fiscal 1968: the Endowment expects to receive $90 million in applications during the fiscal year with less than $5 million available for program expenditures. Many projects with a high potential for return to the public have been rejected for lack of funds.

A notable feature of witnesses' testimony regarding the humanities was the disparity between Federal funding of the sciences, which totalled $510 million and the Federal budget of the National Endowment for the Humanities—less than $1 million, or one-fifth of one percent of the Federal budget for the arts. This emphasis on one half of the need has a depressing effect on the number and quality of those students who choose academic professions in the humanities.

Also of great interest to the committee was the support given for an enlarged program in the humanities by representatives of the business community; recognition was given to the fact that a competent manager is one who can take the human dimensions of management decisions into consideration. The witnesses emphasized the future value of the programs of the National Endowment for the Humanities and the importance of humanities in the fields of education and research. The witnesses also stated that the Endowment had been successful in raising funds from private sources and that the public should be made aware of the need for Federal support.

In considering the future of the arts and humanities, the committee members were guided by the following considerations:

1. The arts and humanities are of great importance to the nation's culture and economy. They contribute to the quality of life and the development of new ideas and concepts.
2. The arts and humanities are essential to the education of the young and the training of future leaders.
3. The arts and humanities are a source of employment and a means of personal expression and satisfaction.
4. The arts and humanities are a means of recreation and a source of inspiration for all people.

ARTS AND THE HUMANITIES

which presents greater opportunity but is a heavy economic burden on museums, schools, and other organizations in the arts. The committee again noted with interest the support voiced by representatives of the business community, who spoke of the relationship between business and the arts—a relationship which brings benefits to both sides. But again the need for funds was spoken of as the overriding issue.

When hearings were first held on the desirability of establishing a National Foundation on the Arts and the Humanities, the fear was expressed that Federal support would bring about Federal control. Testimony at the joint hearing indicated that neither Endowment was open to criticism on this point.

The major purpose of the National Foundation on the Arts and the Humanities Act is to provide a public support for the arts through Federal grants to artists and organizations, and to encourage the establishment of museums, libraries, and other public facilities for the arts. The committee was pleased to note that the National Foundation on the Arts and the Humanities Act was being initially considered.

During the 2 days of hearings conducted by the Senate special subcommittee, the administration's witnesses, the Chairman of the Endowment, were heard. The hearing record contains much testimony and backup material which detailed the future plans of each Endowment. The need for programs in new areas as well as the continuation and expansion of present programs was documented, and the level of funding necessary to accomplish theses ends was studied in detail.

One matter which received much attention was the awards made by the National Endowment for the Arts to young artists (painters and sculptors). Testimony was received which indicated that there is a great need for over the predominant number of awards should be made to outstanding artists as opposed to representative artists. The committee was aware of the judgment on the point of artistic discrimination, and noted that any effort to discourage recognition would bring about the very opposite effect. Federal control which was confined against any concentration of power or an undue influence to a limited number of organizations or individuals. The Endowment took note of the committee's concern and assured it that merit would continue to be the sole consideration in making such awards.

Subsequent to the hearings, the Senate Special Subcommittee on Arts and Humanities met in executive session to consider S. 2061. After noting
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the general vitality of the Endowments and the desirability of continuation of the program, discussion was held on the following matters and various amendments were considered.

The committee has noted with approval the accomplishments of the State arts agencies authorized by the National Foundation on the Arts and the Humanities Act of 1965, and urges the National Endowment for the Humanities to initiate programs which will achieve similar goals. The "public programs" described in the hearings document "Programs of the National Endowment for the Humanities, Present and Planned" look in that direction, and the committee urges that these public programs be developed in a manner which will extend Federal assistance as broadly as possible.

The committee also noted favorably the efforts being made to broaden audience support of the performing arts and suggests consideration of parallel efforts in the area of the visual arts. Increased public attendance at showings of paintings, for example, would serve to bring to wider public attention the works of individual artists, thus affording an opportunity to broaden the base of public support.

The committee found some indication of the geographical imbalance in the distribution of grants to foster and develop artistic endeavors. Recognizing that there necessarily was a concentration of artistic talent in such national art centers as New York City, the committee nonetheless strongly encourages the National Endowment for the Arts to make a special effort to find and promote the artistic talent in those areas, such as the Southwestern, Southwestern, and Western United States, where there are singular cultures with inherent artistic values.

The inclusion of the science of "Ekistics" within the definition of "arts" and "humanities" was considered. "Ekistics" has been defined by its founder, Constantinos Doxiades, the noted city planner, as the science of human settlement. It aims to treat the problems of human environment utilizing many disciplines working together through the use of modern systems analysis. While noting with favor the work of Doxiades and the value of the ekistical approach, for the time being, the committee felt that the phrase "and the study and application of the [arts/humanities] to the human environment", to the definition of arts and humanities would accomplish the end desired.

COMMITTEE AMENDMENTS

The committee ordered reported H.R. 11308 after substituting the text of S. 2061, amended as follows:

As originally introduced, section 4 of S. 2061 amended sections 6(b) and 8(f) of Public Law 89-209 by providing that the Chairman of each Endowment could approve grant applications if the Council of that Endowment had not made a recommendation within a reasonable time or had waived the requirement of approval below a specific amount with enunciated policy terms. An amendment to S. 2061 was accepted which made certain the terms under which the Chairman of each Endowment could approve or disapprove a grant application.

ARTS AND THE HUMANITIES

As originally introduced, section 6 of S. 2061 amended section 11(a) and 11(b) of Public Law 89-209 by providing an open-ended authorization of funds for an unlimited number of years. An amendment to S. 2061 was accepted which set specific funding authorizations for a 2-year period.

A new section 7 to S. 2061 was accepted which modified the definitions of "the arts" and "the humanities" contained in sections 3(a) and 3(b) of Public Law 89-209.

In addition, various minor technical amendments were made in the bill S. 2061.

MAJOR PROVISIONS OF THE AMENDED BILL

Section 1

Section 1 of H.R. 11308 amends section 3(f) of Public Law 89-209 by broadening the definition of the term "workshop." Section 3(f) as presently written limits the definition of "workshop" to those conducted in the arts. The amended section 3(f) will allow for workshops in the humanities as well as in the arts, thereby utilizing this tool for the dissemination of academic knowledge.

Section 2

Section 2 of H.R. 11308 amends section 5(c) of Public Law 89-209 by providing the National Endowment for the Arts with authority to support, through contracts, projects for which the present grant-in-aid procedure is not feasible. In this connection, contracts could be made with groups and individuals to conduct programs and projects for which matching funds are not available, as in the case of a study to be made or a new organization to foster. Therefore section 5(f) of Public Law 89-209 is also amended to allow the Endowment to utilize up to 20 percent of its general program 5(c) money on a nonmatching basis, without requiring that the applicant demonstrate its unsuccessful attempts to raise an equal amount of matching funds as is presently required by the act.

Section 3

Section 3 of H.R. 11308 amends section 5(h) (3) and section 5(h) (5) of Public Law 89-209 by providing that funds allotted, but not granted, to the State arts councils would be made available to fund general program activities of the National Endowment for the Arts under section 5(c) of the public law. As presently written, 5(h) (5) provides that allotted but ungranted State arts council funds are available to carry out general program activities only to the extent that the value of gifts received by the Endowment pursuant to section 10(a) (2) exceeds those funds appropriated under section 11(b).

Section 4

Section 4 of H.R. 11308 amends section 6(b) and section 8(f) of Public Law 29-209 by granting to the Chairman of each Endowment the authority to approve or disapprove an application for a grant, without individual action by the Endowment Council at one of its meetings if (1) the grant application is for $5,000 or less; (2) the Council has delegated such au-
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authority to the Chairman; and (3) each such action by the Chairman is reviewed by the Council.

While the committee agrees that this new procedure is necessary to allow a more effective administrative disposition of applications for grants, it does not understand that the Council will abrogate its function to make recommendations on grants.

Section 5

Section 5 of H.R. 11308 amends section 10 of Public Law 89-209 to permit that funds appropriated pursuant to section 11(b), which are to be used for matching purposes, may be used to match either restricted or unrestricted donations. While the matching gift program has been successful (since the passage of the act $2.5 million has been donated), it is felt that more funds could be attracted to each Endowment if the donor could specify the area in which his gift is to be utilized. However, before such restricted gifts are accepted, the Endowment Council must make a recommendation on the gift and the Endowment Chairman must approve the matching of the gift.

Section 6

Section 6 of H.R. 11308 amends section 11 of Public Law 89-209 to authorize the appropriation for the National Endowment for the Arts of $3 million for general programs for fiscal year 1969 and $3.5 million for fiscal year 1970. In addition, $2 million is authorized to be appropriated to the National Endowment for the Arts for fiscal 1969 for State arts programs and $2.5 million is authorized to be appropriated for fiscal 1970 for State arts programs; for fiscal 1969 $8 million is authorized to be appropriated to the National Endowment for the Humanities for general program purposes, and $9 million is authorized to be appropriated for fiscal 1970. There is further authorized to be appropriated to each Endowment up to $3.25 million for fiscal 1969 and up to $3.5 million for fiscal 1970 for the matching of gifts pursuant to section 10(a) (2) of Public Law 89-209.

Authorization is also made for the appropriation of funds necessary for administrative expenses.

Section 7

Section 7 of H.R. 11308 amends section 3(a) and section 3(b) of Public Law 89-209, the definitions of "the arts," and "the humanities," by providing that the terms "and the study and application of the humanities/arts to the human environment" be added. This addition to the definitions was engendered by the committee's recognition of the science of "esthetics" which seeks to relate all disciplines to the betterment of the human environment, and the pertinency which such involvement of the arts and humanities would have to social problems.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 3(f) of Public Law 89-209 is amended by defining a "workshop" as an activity which as one of its enumerated purposes is to promote scholarship and teaching.
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"workshop," found in section 3(f) of the National Foundation on the Arts and the Humanities Act of 1965, to include other activities as well as productions. Section 2 of the bill would authorize the National Endowment for the Arts to carry out a program of contracts with, as well as grants-in-aid to, appropriate groups and individuals. The bill would also provide technical amendments to the act and would authorize continuance of existing programs under the act administered by the Foundation; the 1965 act authorized funding for those programs through the fiscal year 1968 and the bill would continue authorization for funding through the fiscal year 1969.

This Department appreciates the role of the Foundation, established in 1965, in encouraging high standards of performance and scholarship in the arts and humanities and in supporting research, publication, and fuller appreciation by the public of the arts and of humanistic studies. The proposed legislation is in harmony with these objectives; we would, therefore, recommend its enactment.

We are advised by the Bureau of the Budget that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

CONFERENCE REPORT NO. 1511
STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11308) to amend the National Foundation on the Arts and the Humanities Act of 1965, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate struck out all of the House bill after the enacting clause and inserted a substitute amendment. The committee of conference was agreed to a substitute for both the House bill and the Senate amendment. Except for technical, clarifying, and conforming changes, the following statement explains the differences between the House bill and the substitute agreed to in conference.

The House bill removed the authority contained in existing law for the National Endowment for the Arts to make grants to individuals. The Senate amendment retained provisions of existing law in this respect and continued to permit grants to individuals. The conference substitute permits grants to be made to individuals, but limited to those "of exceptional talent."

The House bill amended section 6(b) and 8(f) of existing law to permit the Chairmen of the respective Endowments to approve or disapprove applications without a Council recommendation in the case of any application involving $10,000 or less, provided such action was taken pursuant to a delegation of authority from the Council to the Chairman, and provided that each such action is reported to the Council. The Senate amendment contained similar authority, but only in the case of applications involving $5,000 or less, and provided that each such action is reviewed by the Council. The conference substitute retained the House figure of $10,000, and retained the Senate language requiring that each such action be reviewed by the Council.


The House bill authorized the appropriation to the National Endowment for the Arts for the purpose of carrying out section 5(c) and the functions transferred by section 6(a) of $5,100,000 for fiscal year 1969. As indicated above, it authorized no appropriation for these purposes for fiscal year 1970. The Senate amendment authorized the appropriation to the National Endowment for the Arts for the purpose of carrying out section 5(c) and the functions transferred by section 6(a) of $6 million for fiscal year 1969. The Senate amendment also authorized $6.5 million for these purposes for the fiscal year 1970. The conference substitute authorizes the appropriation to the National Endowment for the Arts for the purposes of sections 5(c) and 6(a) of $6 million for the fiscal year 1969 and $6.5 million for the fiscal year 1970.

The House bill authorized the appropriation to the National Endowment for the Humanities for the purpose of carrying out section 7(c) of $4.1 million for fiscal year 1969. As indicated above, it authorized no appropriation for these purposes for fiscal year 1970. The Senate amendment authorized the appropriation to the National Endowment for the Humanities for the purpose of carrying out section 7(c) of $8 million for fiscal year 1969 and $9 million for fiscal year 1970. The conference substitute authorizes the appropriation to the National Endowment for the Humanities for the purposes of section 7(c) of $8 million for fiscal year 1969 and $9 million for fiscal year 1970.

The House bill did not authorize the appropriation of funds for the purpose of supporting State arts programs under section 5(h) for fiscal year 1970. The Senate amendment authorized $2.5 million for this purpose for fiscal year 1970. The conference substitute adopted the Senate provision on this point. In this connection, the conferees urge the National Endowment for the Arts to give sympathetic consideration to support of worthy State arts projects if the funds appropriated to carry out the purpose of section 5(h) prove inadequate to support such worthy projects.

The House bill authorized the appropriation to each Endowment of an amount equal to the total of amounts received by that Endowment under section 10(a) (2) of the Act. The Senate amendment provided a similar authorization, except that the amount appropriated to each Endowment for these purposes could not exceed $3,250,000 for fiscal year 1969, and $3,500,000 for fiscal year 1970. The conference substitute authorized the appropriation to each Endowment of an amount equal to the total of amounts received by that Endowment under section 10(a) (2) of the
LEGISLATIVE HISTORY

1970. Sums appropriated under the authority of this section remain available until expended.

Section 11(b) is amended to authorize the appropriation to each Endowment up to $3.25 million for fiscal 1969 and $3.50 million for fiscal 1970 for the purposes of carrying out section 10(a) (2) of Public Law 89-209.

Section 11(c) authorizes the appropriation of such sums as may be necessary to administer the provisions of Public Law 89-209.

Section 7

Sections 3(a) and 3(b) of Public Law 89-209 are amended to include within the definitions of the arts and the humanities the phrase "and the study and application of the [humanities/arts] to the human environment.

In section 3(a) the reference to "language, both modern and classic" is amended to read "language, both modern and classical."

AGENCY REPORTS

NATIONAL FOUNDATION ON THE
ARTS AND THE HUMANITIES,

Hon. Lister Hill,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your recent requests to the National Endowment for the Arts and the National Endowment for the Humanities for a report on S. 2061 which would amend the National Foundation on the Arts and the Humanities Act of 1965.

S. 2061 would amend the National Foundation on the Arts and the Humanities Act of 1965 in accordance with legislative recommendations made jointly by the National Endowment for the Arts and the National Endowment for the Humanities. These recommendations are in accord with the program of the President.

In our view, the amendments proposed are necessary in order to improve administration of the Endowments' programs and, more importantly, to provide sufficient appropriations in order to enable the Endowments, in some measure, to meet the very pressing financial needs in this country of those organizations and individuals engaged in artistic and scholarly pursuits.

On July 12 and 13, the Senate Special Subcommittee on Arts and Humanities and the House Special Subcommittee on Labor held joint hearings on S. 2061 at which representatives of both Endowments testified. At that time, a number of public witnesses presented convincing testimony as to the urgent needs in both of these areas.

It is our understanding that late in August the Special Subcommittee on Arts and Humanities of the Senate Committee on Labor and Public Welfare will be holding another day of hearings to discuss the details of this legislation and we look forward to the opportunity to further discuss the legislation with the subcommittee at that time.

We strongly urge that favorable consideration be given to the enactment of S. 2061 and will be happy to provide any additional information you may desire.

The Bureau of the Budget advises us that there is no objection to the submission of this report and that enactment of S. 2061 would be in accord with the program of the President.

Sincerely yours,

Roger L. Stevens,
Chairman, National Endowment for the Arts.

Baraby C. Keeney,
Chairman, National Endowment for the Humanities.

ARTS AND THE HUMANITIES

NATIONAL SCIENCE FOUNDATION,
OFFICE OF THE DIRECTOR,

Hon. Lister Hill,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request of July 10, 1967, for a report on S. 2061, a bill to amend the National Foundation on the Arts and the Humanities Act of 1965.

The National Science Foundation endorses S. 2061 and believes that its enactment will facilitate the carrying out of the mission of the National Foundation on the Arts and the Humanities.

We should like to comment on three points which we believe are of particular significance:

1. Section 4 of the bill would amend sections 6(b) and 8(f) of the act to provide that in cases where a Council has delegated authority to the Chairman, the Chairman may approve applications for financial assistance without securing the specific approval of the Council. The amendment would have the effect of also permitting the Chairman to reject applications without submitting them to the Council.

2. During its history the National Science Foundation has progressed from the initial requirement that the National Science Board approve every research award and fellowship to the present situation where pursuant to statutory authorization the Board has delegated to the Director of the Foundation the authority to make most awards without securing the specific approval of the Board. This greater authority in the chief executive officer of the National Science Foundation has proven both necessary and desirable as the agency has grown. We, therefore, conclude that a similar evolution in the awardmaking procedures in the arts and humanities will be necessary and valuable.

3. Section 6 of the bill would authorize the appropriation for the fiscal year 1967 and each subsequent fiscal year. We believe this change is desirable since it is obviously important that support of activities in the arts and humanities be placed on a continuing basis. The Bureau of the Budget has advised us that it has no objection to the submission of this report and that enactment of S. 2061 would be in accord with the President's program.

Sincerely yours,

Leland J. Haworth, Director.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
August 29, 1967.

Hon. Lister Hill,
Chairman, Committee on Labor and Public Welfare,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of July 10, 1967, for a report on S. 2061, a bill to amend the National Foundation on the Arts and the Humanities Act of 1965.

This bill, we understand, embodies a legislative proposal submitted to the Congress by the National Foundation on the Arts and the Humanities. Section 1 of the bill would expand significantly the definition of
CIRCUIT JUDGES—INCREASE IN NUMBER

For Legislative History of Act, see p. 2086
PUBLIC LAW 90–347; 82 STAT. 183

An Act to provide for the appointment of additional circuit judges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The President shall appoint, by and with the advice and consent of the Senate, one additional circuit judge for the third circuit, two additional circuit judges for the fifth circuit, one additional circuit judge for the sixth circuit, four additional circuit judges for the ninth circuit, and one additional circuit judge for the tenth circuit.

Sec. 2. Section 1(c) of the Act of March 18, 1966 (80 Stat. 75), pertaining to the appointment of four additional circuit judges for the fifth circuit is hereby amended in part by deleting the final sentence, providing, “The first four vacancies occurring in the office of circuit judge in said circuit shall not be filled.” These judgeships are hereby made permanent and the present incumbents of such judgeships shall henceforth hold their offices under section 44 of title 28, United States Code, as amended by this Act.

Sec. 3. In order that the table contained in section 44(a) of title 28 of the United States Code 7 will reflect the changes made by sections 1 and 2 in the number of circuit judges for said circuits, such table is amended to read as follows with respect to said circuits:

<table>
<thead>
<tr>
<th>Circuits</th>
<th>Number of Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third</td>
<td>Nine</td>
</tr>
<tr>
<td>Fifth</td>
<td>Fifteen</td>
</tr>
<tr>
<td>Sixth</td>
<td>Nine</td>
</tr>
<tr>
<td>Ninth</td>
<td>Thirteen</td>
</tr>
<tr>
<td>Tenth</td>
<td>Seven</td>
</tr>
</tbody>
</table>

Approved June 18, 1968.

Sec. 3. Section 5(h) (3) and section 5(h) (6) of the National Foundation on the Arts and the Humanities Act of 1965 11 are amended to read as follows:

“(3) Funds appropriated to carry out the purpose of this section 5(h) for any fiscal year shall be equally allotted among the States.”

“(5) All amounts allotted to paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out section 5(c).”

Sec. 4. Section 6(b) and section 8(f) of the National Foundation on the Arts and the Humanities Act of 1965 12 are amended to read as follows:

“(b) The National Council on the Arts shall, in addition to performing any of the duties and responsibilities prescribed by the National Arts and Cultural Development Act of 1964, (1) advise the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties, or responsibilities pursuant to the provisions of this Act, and (2) review applications for financial assistance made under this Act 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 $10,000 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.”

“(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 $10,000 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.”

Sec. 5. Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 13 is amended by:

(a) repealing paragraphs (2) and (3) of subsection (a) and inserting in lieu thereof the following:

“(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; and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 5(c) and 7(c) and the functions transferred by section 6(a) of this Act;”

(b) redesignating paragraphs “(4)”, “(5)”, “(6)”, “(7)”, and “(8)” as paragraphs “(3)”, “(4)”, “(5)”, “(6)”, and “(7)”,

(c) amending the text following subsection (a) (8) to read as follows:

“In any case in which any money or other property is donated, bequeathed, or devised to the Foundation (A) without designation of the Endowment for the benefit of which such property is intended, and (B) without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairman of an Endowment shall have authority to receive such property. In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairman of an Endowment shall have authority to receive such property. For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised. For the purposes of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairman of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.”

Sec. 6. Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 14 is amended by

(a) amending subsection (a)(1) to read as follows:

“(a) For the purpose of carrying out section 8(c) and the functions transferred by section 6(a) of this Act, there is hereby authorized to be appropriated to the National Endowment for the Arts $6,000,000 for the fiscal year ending June 30, 1969, and $5,000,000 for the fiscal year ending June 30, 1970; for the purpose of carrying

12. 20 U.S.C.A. § 954(h)(2) and (h)(3).
out section 7(c) of this Act there is hereby authorized to be appropriated to the National Endowment for the Humanities $8,000,000 for the fiscal year ending June 30, 1969, and $9,000,000 for the fiscal year ending June 30, 1970. In addition, there is hereby authorized to be appropriated to the National Endowment for the Arts for the purposes of section 5(h) the sum of $2,000,000 for the fiscal year ending June 30, 1969, and $2,500,000 for the fiscal year ending June 30, 1970. Sums appropriated under the authority of this subsection shall remain available until expended. For each subsequent fiscal year such sums may be appropriated as the Congress may hereafter authorize by law to carry out the provisions of this subsection.”

(b) amending subsection (b) to read as follows:

“(b) In addition to the sums authorized by subsection (a), there is authorized to be appropriated to each Endowment an amount equal to the total of amounts received by that Endowment under section 10(a) (2) of this Act, except that the amount so appropriated for the fiscal year ending June 30, 1969, and the amount so appropriated for the fiscal year ending June 30, 1970, shall not aggregate more than $13,500,000. Amounts appropriated to an Endowment under this subsection shall remain available until expended. For each subsequent fiscal year such sums may be appropriated as the Congress may hereafter authorize by law to carry out the provisions of this subsection.”

(c) repealing subsection (c).

(d) redesignating subsections “(d)” and “(e)” as subsections “(e)” and “(d)”.

Sec. 7. Section 3(a) and section 3(b) of the National Foundation on the Arts and the Humanities Act of 196515 are amended to read as follows:

“(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; the history, criticism, theory, and practice 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.

“(b) The term ‘the arts’ includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, and the study and application of the arts to the human environment.”

Approved June 18, 1968.

15. 20 U.S.C.A. § 952(a) and (b).