

2016

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1995

SECTION BY SECTION ANALYSIS

The attached draft derives directly from the current authorizing legislation for the National Foundation on the Arts and the Humanities.¹ The bill has been restructured to separate out the National Endowment for the Arts, the National Endowment for the Humanities, the Institute for Museum Services, and the Federal Council. The sections concerning the National Endowment for the Arts have been internally restructured. In addition, technical and clarifying amendments have been made throughout the bill; more significant technical changes are identified in this analysis.

SUBCHAPTER I

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Sec. 951 DECLARATION OF FINDINGS AND PURPOSES

Section 951 sets forth the Congressional declaration of findings and purposes. Subsection (1) has been slightly revised to reflect that the arts and the humanities benefit all Americans. Subsection (5) has been revised to recognize the goal of providing all Americans with access to the arts and the humanities, in partnership with public and private agencies; and to reaffirm that the Government must be sensitive to the need to use public funding of the arts and the humanities to advance the public good. Subsection (6) has been clarified to reference the role of federal support of the arts and the humanities in fostering mutual respect for the diverse beliefs and values of all persons and groups. Subsection (9) has been expanded to incorporate goals of education in the arts and the humanities derived from former section 954a(a). [951; 954a(a)]

Sec. 952 NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Section 952 establishes the National Foundation on the Arts and the Humanities.

Subsection 952(a) establishes the National Foundation on the Arts and the Humanities, composed of the National Endowment for the

¹ Brackets at the end of each paragraph reference the section in the original legislation from which the new section derives.

Arts, the National Foundation for the Humanities, the Institute for Museum Services, and the Federal Council on the Arts and the Humanities. [953(a)]

Subsection 952(b) defines the purpose of the Foundation. [953(b)]

Subsection 952(c) prohibits the exercise of direction, supervision, or control over the policy determination, personnel, curriculum, administration or operation of any school or other non-Federal agency, institution, organization, or association. [953(c)]

Subsection 952(d) summarizes the rules for division between the National Endowment for the Arts and the National Endowment for the Humanities of money or other property donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which the gift is intended. It has been rewritten for clarification. In order to reflect a current understanding, the section has been revised to provide that if a gift is made to the Foundation for specific purposes that are covered by both Endowments, the gift is divided evenly between the Endowments unless the Chairpersons agree otherwise. [959(b)]

Subsection 952(e) specifies that gifts to the Endowments are deemed to be gifts to the United States for the purpose of the income tax, gift tax, and estate tax laws of the United States. [959(b)(3)]

SUBCHAPTER II **NATIONAL ENDOWMENT FOR THE ARTS**

Sec. 953 DEFINITIONS

Section 953 defines key terms used in the subchapter on the National Endowment for the Arts. The definition of "the arts" is updated, and definitions are added for "Challenge Funds," "Treasury Funds," and "Program Funds," the different categories of grant funds, and for "grant." "Obscenity" is defined in accordance with standards set by the Supreme Court in Miller v. California, 413 U.S. 15 (1973). The definition of regional groups is moved from the section on grants to States. [952; 954(g)(4)(D)]

Sec. 954 NATIONAL ENDOWMENT FOR THE ARTS

Section 954 establishes the National Endowment for the Arts and sets forth its functions.

Subsection 954(a) establishes the National Endowment for the Arts. [954(a)]

Subsection 954(b) establishes that the National Endowment for the Arts shall be headed by the Chairperson of the National Endowment for the Arts, appointed by the President by and with the advice and consent of the Senate, and sets the Chairperson's term of office. [954(b)]

Subsection 954(c) authorizes the Chairperson to establish and carry out a program of grants to groups and individuals for projects, productions, and workshops; sets forth specific purposes for such grants; and establishes matching requirements of one non-federal dollar for every federal dollar for Program funds, and three non-federal dollars for every federal dollar for Treasury funds. The matching requirements clarify existing law and reflect current program requirements. [954(c); 954(e)]

Subsection 954(d) authorizes the Chairperson to establish and carry out a program of grants to assist the States in supporting projects, productions, or workshops that meet the standards enumerated in subsection (c), and in developing projects, productions, or workshops in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each State; sets forth the requirements for grants under this subsection, including an approved State plan for implementation; and establishes formulas for grant allotments to States under this subsection. [954(g)]

Subsection 954(e) authorizes the Chairperson to establish and carry out a program of Challenge grants with cultural organizations and institutions for specified purposes, including financial stabilization and development of long-range institutional plans, and establishes matching requirements of three non-federal dollars for every federal dollar for Challenge funds. The purposes subsections are rewritten for clarification. The matching requirements clarify existing law and reflect current program requirements. [954(p)(1)]

Subsection 954(f) authorizes the Chairperson to carry out a program of grants to States for the purposes of raising the artistic capabilities of developing cultural organizations and institutions through artistic, programmatic, and staff development to enhance artistic capabilities; providing technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

stimulating artistic activity and awareness, and broadening public access to the arts, in rural, inner-city and other areas that are underserved artistically, subject to the matching requirements set forth in subsection (c). [954(p)(1)]

Subsection 954(g) authorizes the Chairperson to establish and carry out a program of grants for arts in education, subject to the matching requirements set forth in subsection (c). The advisory council on arts education is replaced, in accordance with current practice, with a requirement that the Chairperson establish this program with the advice of the National Council on the Arts. [954a(b), (c)]

Subsection 954(h) requires the Chairperson, in ongoing consultation with State and local agencies, relevant organizations, and relevant Federal agencies, to develop and implement a practical system of national information and data collection and public dissemination on the arts, artists and arts groups, and their audiences, and to prepare a periodic report on the state of the arts in the Nation. [954(q)]

Subsection 954(i) establishes that no payment shall be made under section 954 except upon application submitted to the National Endowment for the Arts in accordance with procedures established by the Chairperson; and establishes specific criteria for such applications, including that review panels are to judge applications by the criteria of artistic excellence and artistic merit, taking into account general standards of decency and respect for the diverse beliefs and values of the American public; that in selecting grant recipients the Chairman must give particular regard to underserved areas and underrepresented artists; that obscenity is without artistic merit, is not protected speech, and shall not be funded; and that projects, productions, and workshops that are determined to be obscene are prohibited from receiving financial assistance. The provision instructing the Chairperson to give particular regard to underserved areas is added to the existing requirement for particular regard to underrepresented artists in order to reflect current practice and Congressional intent with regard to underserved areas. [954(c), (d)]

Subsection 954(j) requires the Chairperson to use advisory panels to review applications and to make recommendations to the National Council on the Arts, and establishes rules governing the composition of panels, their operations, and their review of applications. Panels are required to be artistically, culturally, geographically and ethnically diverse, to include at least one layperson, to apply strict conflict of interest requirements, and to change substantially in membership annually.

The definition of layperson is modified to provide that laypersons may not be employees of artists organizations or arts organizations in order to reflect current Endowment practice. The section is modified to reflect that panels are the first of three levels of review of applications (by panels, the Council, and the Chairperson). [959(c)]

Subsection 954(k) requires that as a condition of the receipt of financial assistance under section 954, applications include a detailed description of the proposed project, production, or workshop and a timetable for its completion; and imposes detailed requirements for interim, financial, and final reports. Separate reporting requirements in the current legislation are consolidated. [954(i); 959(f)(2), (3)]

Subsection 954(l) requires the Chairperson to conduct a post-award evaluation of projects, productions, and workshops for which financial assistance is provided by the Endowment under sections 954(c), and establishes that this evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under subsection (k). [959(f)(1)]

Subsection 954(m) requires the Chairperson to establish procedures to provide for the distribution of financial assistance to recipients in installments, and to withhold payment unless that grant recipient is in substantial compliance with the terms and conditions of the grant. [954(j)]

Subsection 954(n) requires the Inspector General of the Endowment to conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the applicable regulations and procedures established under this subchapter including regulations relating to accounting and financial matters. [954 (k)]

Subsection 954(o) imposes a condition on the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving the grant furnish adequate assurances to the Secretary of Labor that all professional performers and related or supporting professional personnel employed on projects or productions financed under this section will be paid not less than the prevailing minimum compensation; and that no part of any project or production financed under this section will be performed under working conditions which are unsanitary, hazardous, or dangerous to the health and safety of the employees involved. [954(m)]

Subsection 954(p) imposes a condition on the receipt of any grant under this section that the group or individual of exceptional

talent or the State or State agency receiving the grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. [954(n)]

Subsection 954(q) requires the Chairperson to correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and to develop the programs of the Endowment with due regard to the contribution to its objectives that can be made by other Federal agencies under existing programs. [954(o)]

Sec. 955 NATIONAL COUNCIL ON THE ARTS

Section 955 establishes the National Council on the Arts and sets forth its powers.

Subsection 955(a) establishes the National Council on the Arts. [955(a)]

Subsection 955(b) sets forth the composition and membership of the National Council on the Arts. [955(b)]

Subsection 955(c) sets forth the terms of office of Council members. [955(c)]

Subsection 955(d) sets forth the compensation of Council members. [955(d)]

Subsection 955(e) establishes the requirements for Council meetings and records; and establishes the duties of Council members to make recommendations to the Chairperson concerning particular applications for assistance and the criteria for Council decisionmaking. [955(e)]

Subsection 955(f) establishes that the Chairperson shall not approve or disapprove any application until the Chairperson has received the recommendation of the Council on such application; grants the Chairperson final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation; and specifies the terms under which the Chairperson may approve or disapprove an

application or amendment involving \$35,000 or less or a change in the grant amount of 20 percent or less. The Chairman's authority to approve small grants and amendments is modified to reflect the current delegation from the Council and current practice and to increase the threshold from \$30,000 to \$35,000. [955(f)]

Sec. 956 NATIONAL MEDAL OF ARTS

Section 956 establishes a National Medal of Arts and sets forth terms for its award.

Section 956(a) establishes a National Medal of Arts. [955b(a)]

Section 956(b) provides that the President shall from time to time award the National Medal of Arts, on the basis of recommendations from the National Council on the Arts, to individuals or groups who in the President's judgment are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States, and sets the requirements for such medals. [955b(b)]

Section 956(c) provides that funds made available to the National Endowment for the Arts shall be used to carry out this section. [955b(c)]

Sec. 957 ADMINISTRATIVE PROVISIONS

Section 957 sets forth administrative provisions for the National Endowment for the Arts.

Subsection 957(a) grants authority to the Chairperson to prescribe such regulations and procedures governing the manner in which the Chairperson's functions shall be carried out; to solicit, accept, receive, invest, and use gifts to the Endowment; to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities; to utilize experts and consultants, including panels of experts; to accept and utilize volunteer services; to make advance, progress, and other payments without regard to 31 U.S.C. 3324; to rent office space in the District of Columbia; and to make other necessary expenditures. The gift authority is enhanced to clarify the Endowment's authority to solicit gifts and to increase its ability to enter into public-private partnerships. [959(a)]

Subsection 957(b), in order to assure that only nonprofit organizations will be eligible for assistance, provides that any group is eligible for financial assistance pursuant to this section only if no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and donations to the group are allowable as a charitable contribution under the standards of 26 U.S.C. 170(c). [954(f)]

Subsection 957(c) provides that any loans made by the Chairperson under this subtitle must be made in accordance with terms and conditions approved by the Secretary of the Treasury. [954(c)]

Subsection 957(d) requires the Chairperson to submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year summarizing the Endowment's activities during the preceding year and including recommendations the Chairperson deems appropriate. [959(d)]

Subsection 957(e) permits the National Council on the Arts to submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable. [959(e)]

Subsection 957(f) provides that official publications of the Endowment under this subtitle may be supported without regard for the provisions of 44 U.S.C. 501, only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives a report justifying any exemption from such section 501. [954(c)]

Subsection 957(g) provides that if any grant recipient substantially fails to satisfy the purposes for which such financial assistance is provided or the reporting requirements of subsection 954(k), the Chairperson may, for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under subsection 954(l); prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment; and if such project, production, or program is published, require that the publication contain the following statement: "The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts.". [959(f)(3)]

Subsection 957(h) provides that whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that a group is not complying substantially with the provisions of this subtitle, a State agency is not complying substantially with terms and conditions of its State plan approved under this subtitle, or any funds granted to a group or State agency under this subtitle have been diverted from the purposes for which they were allotted or paid, the Chairperson shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this subtitle to that group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until that group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended. [954(h)]

Subsection 957(i) provides that if, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this subtitle by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, or workshop that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment, no subsequent financial assistance be provided under this subtitle to such recipient; and sets further terms for such recipients. [954(1)]

Sec. 958 AUTHORIZATION OF APPROPRIATIONS

Section 958 authorizes appropriations for the National Endowment for the Arts.

Subsection 958(a) authorizes appropriations for the purpose of carrying out sections 954(c), (d), (f), and (g) for fiscal years 1996 through 2001; provides that not less than 27.5 percent of the amount appropriated under the subsection for the respective fiscal year shall be for carrying out section 954(d); not less than 7.5 percent of the amount appropriated for the respective fiscal year shall be for carrying out programs to expand public access to the arts in rural, inner-city, and other artistically underserved areas under section 954(f)(3), with not less than 50 percent of these funds used in rural areas; and that in any fiscal year in which the funds appropriated under the subsection exceed \$175,000,000, 50 percent of the excess, not to exceed \$40,000,000 in the aggregate, shall be available to carry out

arts in education programs under section 954(g); authorizes appropriations for Treasury Funds as matching funds to the sum of donations to the Endowment and money raised by grantees; and authorizes appropriations for Challenge funds as matching funds to the sum of donations to the Endowment for Challenge Program purposes and donations to grantees for Challenge Program purposes. The section is revised to clarify Treasury Fund and Challenge Fund appropriations in accordance with the Congress's current practice, to reflect the Endowment's application of the State and underserved setasides, and to incorporate the arts education override currently in section 960(f). [960(a), 960(f)]

Subsection 958(b) provides that sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended and authorizes appropriations authorized under subsection (a) of this section to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation. [960(b)]

Subsection 958(c) authorizes appropriations for fiscal years 1996 through 2001, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed \$100,000 for each such fiscal year for official reception and representation expenses. The limitation on reception and representation expenditures with nonappropriated funds is deleted. [960(c)]

Subsection 958(d) provides that the total amount of appropriations to carry out the activities of the National Endowment for the Arts shall be such sums as may be necessary for each fiscal year 1996 through 2001, subject to the matching requirements set forth in subsection (c). [960(d)]

SECTION BY SECTION ANALYSIS

SUBCHAPTER III

NATIONAL ENDOWMENT FOR THE HUMANITIES

Sec. 958 DEFINITIONS

Section 958 defines various terms used throughout the subchapter on the National Endowment for the Humanities (NEH). The definition of "group" has been moved from this section to a new subsection on eligibility, which codifies and clarifies existing NEH practice. A definition of the term "arrangement" has been added in order to avoid repetition later in the statute. [952]

Sec. 959 ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Section 959 establishes and sets forth the functions of the NEH.

Subsection 959(a) establishes the NEH. [956(a)]

Subsection 959(b) provides that the NEH shall be headed by a Chairperson, appointed by the President with the advice and consent of the Senate and sets forth the Chairperson's term of office. [956(b)]

Subsection 959(c) authorizes the Chairperson, with the advice of the National Council on the Humanities, to establish a program to support and promote research and training in the humanities; to foster education in and appreciation of the humanities; to support the publication of scholarly works in the humanities; and to encourage greater access to and preservation of material important to the humanities.

The authorities set forth in this subsection are critical to carrying out the intent of Congress and provide the basis for current NEH grant programs. In order to clarify and codify eligibility criteria for financial assistance, eligibility criteria for specific grant programs have been deleted from this subsection and consolidated in new subsection 959(1).

The programs derived from the authority in this section are funded with outright program funds and with matching Treasury dollars. Treasury funds are awarded on the basis of one non-federal dollar for every Treasury dollar. [956(c)]

Subsection 959(d) authorizes the Chairperson to coordinate the programs of the NEH with other federal, state, and private programs. The NEH has a longstanding history of working closely with state humanities councils and federal agencies to fulfill its mission. For example, the NEH collaborates with the National Science Foundation on public programs designed to create public understanding of the relationship between science, engineering and the humanities. The NEH also collaborates with private foundations. For example, the NEH and the Readers' Digest Foundation have collaborated on the highly successful "teacher/scholar program." [956(d)]

Subsection 959(e) limits the funding the NEH may provide for workshop activities where admission is charged. [959(e)]

Subsection 959(f) authorizes the Chairperson, with the advice of the National Council on the Humanities, to establish and carry out a program of grant-in-aid to humanities organization in the States in order to develop the humanities programming in each of the States. There are two types of humanities organizations that can qualify for assistance under this subsection: (1) state agencies, and (2) private, non-profit organizations. Where a State has not designated a state humanities organization, a private nonprofit organization in the state may qualify for assistance. However, only one organization may qualify in each state. Currently, there are humanities councils in all of the states territories; each is organized as a private, nonprofit organization. State humanities councils are required to match all federal funds on a one-to-one basis.

Subsection 959(f) (5) (B) authorized the Chairperson to make grants to "regional groups" of any funds appropriated for this program that are not obligated by the end of the fiscal year. The reference to "regional groups" in this subsection has been deleted because there are no such groups. This program is funded with outright program funds. [956(f)]

Subsection 959(g) requires grantees to furnish adequate assurance to the Secretary of Labor that: (1) all professional performers and related or supporting professional personnel employed on projects financed by the NEH will be paid not less than the prevailing minimum compensation; and (2) no part of any project financed by the NEH will be performed under working conditions that are unsanitary, hazardous, or dangerous to the health and safety of the employees involved. [956(g)]

Subsection 959(h) authorizes the Chairperson to establish and carry out a challenge grant program with public and private humanities organizations for various purposes including increasing the organizations' base of support in the private sector, improving public outreach, and other purposes designed to create greater stability for the humanities community. Under current NEH policy, first-time recipients of challenge grants must match every federal dollar received with three nonfederal dollar; second-time

recipients must provide matching funding on a 1:4 ratio. Outdated references to the NEH Bicentennial program have been deleted from this subsection. This program is funded with challenge funds. [956(h)]

Subsection 959(i) authorizes the Chairperson to enter into interagency agreements to promote the humanities-related activities of other federal agencies. The NEH has used this authority to enter into interagency agreements with the National Science Foundation and the Department of Education. [956(i)]

Subsection 959(j) requires grantees to provide adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid at wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. [956(j)]

Subsection 959(k) requires the Chairperson, in consultation with State and local agencies, and other relevant organizations and federal agencies, to develop and implement a practical system of national information and data collection and public dissemination on the humanities, scholars, educational and cultural groups, and their audiences, and to prepare a periodic report on the state of the humanities in the Nation. [956(k)]

Subsection 959(l) codifies existing NEH practice regarding eligibility criteria for financial assistance by consolidating the criteria for various grant programs into one subsection and by setting forth longstanding NEH eligibility criteria. The purpose of the amendment is provide for a clear statement of the eligibility criteria. Eligible "groups" include State and local governments, Indian tribes, and nonprofit organizations. The subsection maintains the current requirement that nonprofit organizations must meet the requirements for deductibility of contributions under the Internal Revenue Code. Other "entities" engaged in the production of humanities films or publications may be eligible for assistance but only if the Chairperson determines, with the advice of the National Council, that a grant to the entity would significantly advance knowledge or understanding of the humanities in the United States. Any "individual" is eligible if the person is a U.S. national or if the Chairperson determines, with the advice of the National Council, that a grant to the individual would significantly advance knowledge or understanding of the humanities in the United States. [956(c); 956(l)]

Subsection 959(m) authorizes the Chairperson, with the advice of the National Council, to award the Jefferson Lecture in the Humanities Award for distinguished intellectual achievement and the Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. These awards are considered the highest honor in the humanities bestowed by the federal government. [956(m)]

Sec. 960 ESTABLISHMENT OF THE NATIONAL COUNCIL ON THE HUMANITIES

Section 960 establishes the National Council on the Humanities and sets forth its powers.

Subsection 960(a) establishes the National Council. [957(a)]

Subsection 960(b) sets forth the composition and membership of the National Council. This subsection requires that the membership of the Council provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. [957(b)]

Subsection 960(c) sets forth the terms of office of Council members. [957(c)]

Subsection 960(d) establishes the requirement that the Council meet at least twice a year with fourteen members constituting a quorum. [957(d)]

Subsection 960(e) sets forth the compensation of Council members. [957(e)]

Under Subsection 960(f), the Council must advise the Chairperson on every application prior to the approval or disapproval of funding. The Council also is authorized to advise the Chairperson on policies, programs, and procedures for carrying out the functions of the NEH. The Council may delegate to the Chairperson the authority to review applications under \$30,000. The Chairperson has used this authority sparingly, exercising it primarily to respond to such natural disasters as earthquakes, floods, and hurricanes in order to mitigate the adverse effects on humanities institutions and collections. [957(f)]

Sec. 961 ADMINISTRATIVE PROVISIONS

Section 961 sets forth the administrative provisions for the NEH.

Subsection 961(a) authorizes the Chairperson to prescribe such regulations and procedures governing the manner in which the Chairperson's functions are carried out; to solicit, accept, receive, invest, and use gifts to the NEH; to appoint employees and define their duties in accordance with civil service laws; to utilize experts and consultants, including panels of experts; to make advance or progress payments; to rent office space and make other necessary expenditures. The gift acceptance authority has been amended to clarify the NEH's authority to solicit gifts and to establish the NEH's authority to invest gifts. Such authorities enhance the ability of the NEH to enter into public-private partnerships. To further enhance the ability of the Chairman to enter into public-private partnerships, the requirement that the Chairperson receive the National Council's recommendation before accepting a gift has been deleted.

The authority of the Chairperson to use expert panels is of critical importance to the NEH's very successful peer review system. The NEH currently uses more than eleven hundred highly qualified individuals each year to evaluate almost nine thousand applications. A requirement that such panels broadly reflect a variety of humanities perspectives as well as the nation's rich cultural and geographic diversity, which was inadvertently deleted in 1990, has been restored. [959(a)]

Subsection 961(b) requires the Chairperson to submit an annual report to the President for transmittal to the Congress each year summarizing the NEH's activities during the preceding year and including recommendations the Chairperson deems appropriate. [959(d)]

Subsection 961(c) permits the National Council to submit an annual report to the President for transmittal to the Congress each year summarizing the Council's activities during the preceding year and including recommendations it deems appropriate. [959(e)]

Subsection 961(d) requires the Chairperson to conduct a post-award evaluation of projects supported by the NEH. Grant recipients are required to submit to the Chairperson within ninety days of the end of the grant period a financial report, a report describing the final project supported by the NEH, and, if practicable, a copy of the project. This subsection also authorizes the Chairperson to take certain measures in the event that a grant recipient fails to satisfy the purposes for which the recipient was awarded the grant, including prohibiting the use of the name of the NEH or any indication of association with the NEH. [959(f)]

Subsection 961(e) provides that official publications of the NEH may be supported without regard for the provisions of 44 U.S.C. 501, only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives a report justifying any exemption from section 501. This subsection has been amended to correct a longstanding error and clarifies that the requirement applies only to official NEH publications and not to the publications of grantees. [959(c)]

Sec. 962 AUTHORIZATION OF APPROPRIATIONS

Section 962 authorizes appropriations for the NEH.

Subsection 962(a) authorizes appropriations for the purpose of carrying out section 959(c) for fiscal years 1996 through 2001, not less than 20 percent of which must be appropriated for the purpose of carrying out section 959(f); authorizes appropriation of Treasury funds equal to the amount of gifts accepted by the NEH under section 961(a)(2) and the interest earned on those gifts and gifts received by the recipients of NEH grants for the purpose of carrying out the activities support by their NEH grants for fiscal

years 1996 through 2001; and authorizes appropriation of challenge funds equal to the amount of gifts received by the NEH for the purposes set forth in the challenge grant program (959(h)) and the amount of gifts received by recipients of NEH challenge grants for fiscal years 1996 through 2001. This subsection also provides that challenge funds remain available for obligation and expenditure until expended. The Chairperson is authorized by this subsection to issue guidelines to implement the State grant program and the challenge grant program. [960(a)]

Subsection 962(b) provides that the sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended and authorizes appropriations authorized under subsection (a) to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for appropriation in order to afford adequate notice to people interested in the availability of such assistance. [960(b)]

Subsection 962(c) authorizes appropriations for fiscal years 1996 through 2001 to administer the provisions of this subchapter, including funds not to exceed \$100,000 for each fiscal year for official reception and representation expenses. The limitation on reception and representation expenditures with nonappropriated funds is deleted. [960(c)]

Subsection 962(d) provides that the total amount of appropriations to carry out the activities of the NEH shall be such sums as may be necessary for each fiscal year 1996 through 2001. [960(d)]

Subsection 962(e) prohibits grants made to support a workshop for a production for which admission fee is charged if the net proceeds are used for any purpose other than to assist the grant recipient in developing high standards of scholarly excellence or to encourage greater appreciation of the humanities by Americans. This provision does not apply to workshops conducted by schools, colleges or universities. [960(e)]

Section by Section Analysis Museum Services Act

Subsection 963 establishes the purpose of the Museum Services Act.

Subsection 964 establishes the Institute of Museum Services.

Subsection 965 (a) establishes the National Museum Services Board and their composition. This section is amended to delete reference to ex-officio members. Ex-officio members were established when the IMS was not an independent agency. Since 1984, IMS has been an independent agency. The ex-officio members no longer serve their originally intended function. And in fact, ex-officios have not attended National Museum Service Board meetings for years. IMS coordination with other federal agencies is assured through Sec. 966 (b).

Subsection 965 (b) sets the term of office for the National Museum Services Board members.

Subsection 965 (c) establishes that the Chairman of the National Museum Services Board shall be designated by the President and establishes eight appointed members of the board as a quorum.

Subsection 965 (d) establishes that the Board shall meet not less than three times a year and sets forth procedure for the Board to meet whenever one-third of the members request a meeting in writing.

Subsection 965 (e) establishes compensation for National Museum Services Board members.

Subsection 965 (f) establishes that the Board's responsibility is for general policies of the IMS.

Subsection 965 (g) directs the Board with the advice of the Director, to coordinate with activities of other federal agencies.

Subsection 965a OMITTED.

Subsection 966 (a) establishes that the Director shall be appointed by the President with the advice and consent of the Senate. This section also gives the Director the authority to perform duties and exercise powers prescribed by the Board. The Director is restricted from delegating authority to any officer who does not report to the Director.

Subsection 966 (b) establishes requirements that the Director advise the Board regarding policies of the IMS to assure coordination with the National Endowment for the Arts, the National Endowment for the Humanities, the National Science Foundation, appropriate units of the Department of Education, the Library of Congress, the Smithsonian Institution and related organizations.

Subsection 966 (c) establishes authority for the Director to appoint without regard to competitive service and to compensate without regard to General Schedule pay rates up to one-fifth of the number of full-time employees of the Institute. This section is amended to delete reference to Institute of Museum Services Director compensation. This is no longer needed as the Director has been added to OPM executive pay listings.

Subsection 967 establishes the activities of the Institute

Subsection 967 (a) gives the Director, subject to the policy direction of the Board, the authority to make grants to museums to increase and improve museum services.

Subsection 967 (b) gives the Director, subject to the policy direction of the Board, the authority to enter into contracts and cooperative agreements to undertake projects to strengthen museum services. The Institute is permitted to do this only as provided in the Appropriation acts. No financial assistance for operating expenses is allowed under this subsection. This section also sets a cap on the amount of the total appropriation that can be used for contract and cooperative agreements. This cap was established when the subsection served only museum service organizations. In 1990, this limitation was removed and IMS now enters into cooperative agreements with museums, schools and other entities. Therefore the cap is increased to 15% from 5% of the IMS appropriation.

Subsection 967 (c) Requires that IMS support account for no more than 50% of the cost of any project. The subsection exempts 20% of program funds from this limitation.

Subsection 967 (d) Sets forth the authority of the Director to establish procedures for reviewing and evaluating grant, contracts and cooperative agreements.

Subsection 968

The gift acceptance authority has been amended to clarify the IMS's authority to solicit and to establish the IMS's authority to invest gifts. Such authorities enhance the ability of the IMS to enter into public-private partnerships.

Subsection 969 (a) Establishes authorization for appropriations for grants. (and cooperative agreements and contracts). This section is amended to authorize acceptance of appropriations through 2001.

Subsection 969 (b) Establishes authorization for appropriations for administrative costs.

Subsection 969 (c) Establishes that appropriated sums for any fiscal year are available until obligated and expenditure until expended.

Subsection 969 (d) Establishes the authority to appropriate an amount equal to the amount contributed to the Institute. This allows IMS to carry over contributions from year to year.

Subsection 969 (e) This section is deleted because "Assessment of Certain Museums" has been completed

Section 970 Definitions

Subsection 971

Delete this section. Assessment titled, *IMS National Assessment of the Needs of Small, Emerging, Rural and Minority Museums in the United States* completed September, 1992.