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NATIONAL ENDOWMENT FOR THE HUMANITIES

WASHINGTON, D.C. 20506



MEMORANDUM

May 8, 1980

To: Members of the National Council on the Humanities

From: Armen Tashdinian 

Subject: Reauthorization (Tab F)

As you will recall from the report provided at the last Council meeting, on February 7 the Senate passed without debate S. 1386, the bill reported by the Senate Committee on Labor and Human Resources to extend the Endowment's legislative authority through FY 1985. On April 29, the House Committee on Education and Labor approved and sent to the floor H.R. 7153, its version of our reauthorizing legislation. Given the differences between the Senate and House bills, a conference will be needed.

An explanation of the major differences between the House Committee bill and the Administration's and Senate's bills, as they affect the Humanities Endowment, is attached.

Attachment

Comparison of Major Provisions of Reauthorization Bills

General note

There are now three bills in the Congress pertaining to the Endowment's reauthorization:

- the bill proposed by the Administration last year,
- S. 1386, which passed the Senate in February of this year, and
- H.R. 7153, which was reported by the House Committee on Education and Labor to the floor in April.

A comparison of the major provisions of the bills is provided below. This is followed by a detailed summary chart showing all the changes which the bills would make in the NFAH Act.

Major Provisions

1. Renovation and construction

The Administration bill proposes to give the Chairman explicit authority to support renovation; authority to support construction is deleted. The Senate bill omits mention of this and thus maintains the current implied authority for both renovation and construction.

The House Committee bill adopts the language of the Administration bill concerning renovation, leaving the construction authority ambiguous.

2. Loan authority

The Act currently authorizes the Endowment to make loans. The Senate adopted the Administration's proposal to delete this authority.

The House Committee bill does not include this change, thus leaving the loan authority intact.

3. Chairman's grants

The House Committee concurred with the Administration's proposal, also endorsed by the Senate, to raise the ceiling on Chairman's grants from \$17,500 to \$30,000.

4. Representation on panels

The current Act states that NEH and NEA panels "shall have broad geographic representation." The House Committee adopted the Administration's and Senate's proposed change to assure that panels would have "broad geographic and culturally diverse representation."

5. Representation funds

The Senate bill would add a new provision to the Act which would authorize appropriation of up to \$35,000 for each Endowment for "official reception and representation expenses." (The Senate Committee report indicated that this appropriation should replace private funds raised by the Endowment for such purposes.)

The Administration's bill does not contain this provision, taking the view that such activities should be supported only by private funds.

The House Committee will likewise does not contain the Senate provision (thus implying that the Endowment should continue to use private funds for representation activities).

6. Gift procedures

The House Committee, as well as the Senate, adopted the Administration's proposal to allow gift funds which are donated for NEH G&M projects to be contributed directly to grantees rather than routed through and regranted by the Endowment, and thus become Federal outlays.

7. Report on impact of gift authority

The House Committee bill directs each Endowment to study about (1) the use, sale, or disposal of property donated to the Endowment, (2) the effectiveness of the agency's action on such property in increasing non-Federal support for the humanities, and (3) the extent to which the Endowment's procedures for handling such property constitute an administrative and financial burden on grant recipients. The results of this study would have to be reported to the Congress within two years of the enactment of this legislation.

8. National Council

The House Committee bill strikes the provision in the current Act requiring appointees to the National Council to be confirmed by the Senate. There is no such provision in either the Senate or the Administration bills.

9. State programs

a. Structure: The Administration proposes no significant change in the structure of the State humanities committees.

The Senate bill would revise the current provisions of the Act in order to facilitate and encourage greater State government involvement in, if not direction of, the State programs. Specifically:

- (1) If a State wishes to establish a State agency for the humanities,

--it would designate as the State agency the state humanities committee "or other entity" already in existence;

--as the terms of the present members expire, new committee members would be replaced by persons appointed by the governor;

--the State would have to appropriate new funds matching \$100,000 or 25 percent of the total Federal grant, whichever is greater; and

--all funds must be used for programs "designed to bring the humanities to the public."

(2) If a State does not choose to convert the state committee into a State agency, the governor may appoint 4 members of the committee, provided that these not constitute more than 20 percent of the total committee membership. The House Committee proposes no changes affecting this section of the law, thus leaving the composition of the State committees as currently provided for.

- b. State minimums and Chairman's discretionary funding: The Act currently provides that while each State group is to receive a minimum of \$200,000, up to 25 percent of the total funding allocated to State programs may be distributed at the Chairman's discretion.

The Administration's bill proposes to increase the discretionary amount so that it reaches 50 percent by 1985 and to have these funds awarded by the Chairman using as criteria state population, program quality, and state appropriations.

The Senate bill would keep the current provisions unchanged.

The House Committee bill would (1) change the proportion of program funds to be distributed at the Chairman's discretion to 34 percent of excess remaining after the allocation of minimums and (2) legislate a population factor to govern 22 percent of the excess (with the remaining 44 percent to be distributed equally).

- c. Territories' funding: The territories are at this time entitled to the same amount of funding as the states and are required to meet the same matching requirements stipulated in the law.*

*A separate law, P.L. 95-134, governing Federal programs affecting the territories currently authorizes agencies to waive matching requirements legislated in their programs; however, the Department of Interior last year asked agencies not to waive the requirements.

The Administration's bill proposes to give the Chairman authority to establish lower funding levels for the territories which have population under 200,000 (Virgin Islands, Guam, American Samoa, Northern Marianas); normally, with this change, they would each receive no more than \$200,000, but matching could be waived on a portion of their allotment.

The Senate bill would establish \$200,000 as the maximum for the small territories (except as the Chairman might use his 25 percent discretionary funds) and would continue the current matching requirements.

The House Committee bill basically reflects the Administration's view and would authorize the Chairman to make awards to the territories which have population under 200,000 in amounts "appropriate in order to carry out the purposes of the Act," but such amounts would be less than \$200,000. The present matching requirement would be continued, i.e. it could be waived for 20 percent of the grant.

10. Authorized appropriations

The Administration bill proposes to continue the present open-ended authorization, i.e., "such sums as necessary," for all NEH appropriations.

The Senate bill contains specific appropriation ceilings for each of the major appropriation categories, including for the first time Administrative Funds for each year through FY 1985. The Senate ceilings provide a 15 percent increase annually in each category. The sums stipulated in the bill are shown in the attached table.

The House Committee bill would authorize specific funding levels in the major accounts (totalling \$190 million) for only FY 1981, and "such sums as may be necessary" for 1982 through FY 1985.

Authorized Appropriations in Pending Reauthorization Bills
(\$ in millions)

	1981 Approp. Request (Rev.)	Senate Bill Ceilings					House Committee Bill Ceilings	
		1981	1982	1983	1984	1985	1981	1982-1985
NEH - total	\$152.2	\$170.0	\$196.0	\$226.0	\$260.0	\$299.0	\$190.0	Such sums as may be necessary.
Definite	106.5	114.5	132.5	153.5	178.0	206.0	127.0	Such sums as may be necessary.
Treasury	9.5	12.5	14.5	17.0	19.5	22.5	17.0	Such sums as may be necessary.
Challenge	24.0	30.0	34.5	40.0	46.0	53.0	33.0	Such sums as may be necessary.
Administration	12.2	13.0	14.5	15.5	16.5	17.5	13.0	Such sums as may be necessary.
NEA - total	\$160.06	\$175.0	\$201.0	\$231.0	\$266.0	\$306.0	\$200.0	Such sums as may be necessary.
Definite	114.495	115.5	135.5	158.0	184.75	213.2	132.5	Such sums as may be necessary.
Treasury	18.50	18.5	18.5	18.5	20.0	22.5	18.5	Such sums as may be necessary.
Challenge	14.2	27.0	32.0	38.5	44.25	52.3	35.0	Such sums as may be necessary.
Administration	12.865	14.0	15.0	16.0	17.0	18.0	14.0	Such sums as may be necessary.
NFAH total	\$312.26	\$345.0	\$397.0	\$457.0	\$526.0	\$605.0	\$390.0	

OPPA
5/1/80

Comparison of Administration, Senate and House Provisions on Authorizing Legislation

<u>SECTION</u>	<u>PROVISION</u>	<u>ADMINISTRATION BILL</u>	<u>SENATE BILL</u> ^{1/}	<u>HOUSE BILL</u> ^{2/}
2	Declaration of Purpose	No change	No change	No change
3(a)	Definition of "humanities"	No change	"the history, criticism, theory and practice of the arts" is amended to read "the history, criticism, and theory of the arts"	Adopts Senate version
3(d)	Definition of "project": permit limited renovation and construction support by NEA (and implied for NEH)	Restricts facilities support to renovation; deletes provision of construction and authorizes NEH to support limited renovation	No change	Makes NEH authority for renovation explicit
3(g)	Definition of "State"	Includes the Northern Mariana Islands	No change	Includes Northern Mariana Islands
4	Structure and purpose of the National Foundation of the Arts and the Humanities	No change	No change	No change
5	Arts Endowment	Various changes	Various changes	Various changes
6	National Council on the Arts	Members' terms to expire on September 3 year of expiration	Adopts this change	Adopts change and removes requirement for Senate confirmation of Council appointments
7(c)(2)	NEH Chairman authorized to provide certain kinds of support, including loans	Loan provision deleted	Adopts this change	No change
7(c)	Consultation with Congressional committees	Clause (6) retermed paragraph (6); Committee on Labor and Public Welfare retermed Committee Labor and Human Resources	Clause (6) not retermed; Committee redesignated as in Administration bill	No change

<u>SECTION</u>	<u>PROVISION</u>	<u>ADMINISTRATION BILL</u>	<u>SENATE BILL^{1/}</u>	<u>HOUSE BILL^{2/}</u>	2
7(f)	State programs	See separate table describing changes proposed by Administration, Senate and House bills			
7(g)	Compensation/labor condition applying to receipt of grants	No change	"State entity" expanded to "State agency or entity"	No change	
7(i)	New section	Provides for renovation of facilities	No change	No change (Included in 3(d).)	
7(j)	New section	Provides for interagency agreements to promote or assist with humanities-related activities with other Federal agencies	Adopts this change (designated 7(i))	Adopts this change	
8(b)	National Council on the Humanities	No change	No change	Removes requirement for Senate confirmation of Council appointments	
8(f)	Amount of Chairman's grants	Maximum amount increased from \$17,500 to \$30,000	Adopts this change	Adopts this change	
9	Federal Council on the Arts and the Humanities	No change	No change	Authorizes Federal Council to make studies, with the Secretary of Labor, of employment opportunities for professional artists, of state of arts and humanities, esp. economic problems and needs, and of arts and artifacts indemnity program. Repts due in 2 yrs.	
10(a)(4)	Broad geographic representation on panels	Adds "culturally diverse" representation	Adopts this change	Adopts this change	
10(d)	New section	--	--	Calls for a study of the property donated to NEA/NEH and effectiveness as incentive for non-Federal support. Report due in 2 years.	
11(a)(1) and (2)	Definite funds	Authorization for such sums as necessary extended to October 1, 1985	Authorization extended to Oct. 1, 1985; funding authorized: \$114.5 million--FY 1981 \$132.5 million--FY 1982 \$153.5 million--FY 1983 \$178.0 million--FY 1984 \$206.0 million--FY 1985	Authorization extended to October 1, 1985; Funding authorized: FY 1981:\$127,000,000 FY 1982-1985: such sums as needed	

<u>SECTION</u>	<u>PROVISIONS</u>	<u>ADMINISTRATION BILL</u>	<u>SENATE BILL</u> ^{1/}	<u>HOUSE BILL</u> ^{2/}
11(a)(2)	Treasury funds	Removes requirement for G & M gifts to be made to and regranted by NEH; permits grantees to accept gifts directly from donors. Extends open-ended ("such sums") authority for appropriations to Oct. 1, 1985.	Adopts proposed gift-routing change. Appropriation authorized: 1981: --\$12.5 million 1982: --\$14.5 million 1983: --\$17.0 million 1984: --\$19.5 million 1985: --\$22.5 million	Adopts this change. Funding authorized: FY 1981: \$17,000,000 FY 1982-1985: Such sums as necessary
11(a)(3)	Challenge grants	Removes requirement for Challenge gifts to be made to and regranted by NEH; permits grantees to accept gifts directly from donors. Extends open-ended ("such sums") authority for appropriations to Oct. 1, 1985.	Adopts proposed gift-routing change. Authorizes approp: 1981: --\$30 million 1982: --\$34 million 1983: --\$40 million 1984: --\$46 million 1985: --\$53 million	Adopts this change. Authorizes: FY 1981: \$33,000,000: FY 1982-1985: Such sums as necessary
11(c)	Administrative funds: such sums as necessary	No change	Authorizes up to \$35,000 maximum in any fiscal year for official reception and representation (intended to replace <u>all</u> private fund raising) Authorizes approp. for Admin: 1981: --\$13 million 1982: --\$14.5 million 1983: --\$15 million 1984: --\$16.5 million 1985: --\$17.5 million	Authorizes Admin. funds: FY 1981: \$13,000,000 FY 1982-1985: such sums as necessary

Comparison of Administration, Senate and House Amendments on State Programs

(Section 7 (f) of NFAH of 1965 as amended)

<u>Section</u>	<u>Current provisions</u>	<u>Administration bill</u>	<u>Senate bill 1/</u>	<u>House bill 2/</u>
(1) General Authority	Authorizes grants to support up to 50% of programs in states	No change	No change	No change
(2) Requirements of state application/ plan	Requires membership rotation, public information, etc.	No change	<p>Insert sub-section permitting State to convert present state groups to State agency; partial matching by State appropriation of Federal grants; gradual replacement of committee members by Governors' appointees; programs "designed to bring the humanities to the public."</p> <p>If non-State agency: Governor to appoint 4 members of committee or 20%, whichever is smaller; otherwise no change.</p>	No change
(3) (A) State appropriations requirement	If Governor wishes to appoint 50% of committee, State appropriations must match Federal grant in full by third year.	No change	Section replaced by description of State plan requirements--similar to current section (2)	No change
(3)(B) Governor appointments	If non-State agency: Governor appoints 2 members	No change	Deletes this section; replaced by new section (2) above, (permitting 4 members to be appointed by Governor, etc.)	No change
(3)(C) Failure of State appropriations	If State fails to maintain appropriation level, Governor appointments reduced to 2	No change	Deletes this section; replaced by new section (2) above.	No change

Section	Current provisions	Administration bill	Senate ^{1/} bill	House ^{2/} bill	5.
(4) State allotments	Minimum of \$200,000 for each state and territory	No change for "populous" states; for territories: up to \$200,000	No substantive change from current provision	No change for states; territories with populations under 200,000 shall be allotted such amounts up to \$200,000 as the Chairman considers appropriate	
(4)(A) Chairman's reserve	25% of appropriation for State Programs granted at Chairman's discretion	Increases to 30% in 1981 and gradually to 50% in 1985	No substantive change from current provision	34% of excess remaining after states' minimums are met: granted at Chairman's discretion	
(4) (B) Distribution of excess after reserve	Excess after 25%: distributed equally to all states and territories	Excess distributed equally only to "populous" states, but territories eligible for some funds at Chairman's discretion	Excess distributed equally to all except territories under 200,000 population (result of new section (5) (E)), except through Chairman's reserve.	Excess after minimums: 34% at Chairman's discretion 44% equally distributed among the committees; 22% according to population	
(5)(A) Waiver of matching	Chairman may waive matching above \$125,000 but not to exceed 20% of state allotment	No change for "populous" states Inserts new subsection (B) enabling Chairman to waive up to 20% of small territory's allotment ^{3/}	No substantive change from current provisions	No change	
(5) (B) State obligation deadline	Chairman may redistribute funds not obligated by a state 60 days before end of fiscal year	Renumbers to (C); no substantive change	No substantive change	No change	
(5) (C) Prohibition of supplanting	Federal funds may not supplant non-Federal funds	Renumbers to (D); no substantive change	No change	No change	

<u>Section</u>	<u>Current provisions</u>	<u>Administration bill</u>	<u>Senate 1/ bill</u>	<u>House 2/ bill</u>
(5) (D) Regional groups	Defines regional groups: any multistate group	Renumbers to (E); no substantive change	No change	No change
(6) Non-granted funds	Enables Chairman to distribute non-granted State funds for other purposes	No change	No substantive change	No change
(7) Non-compliance by state	Describes measures by Chairman if state violates grant	No change	No substantive change	No change
(8) Exclusive state grantee	Chairman may not make grants to more than one group in a state	No change	No substantive change	No change
(13) (a)(1)(B) Appropriation for state programs	Requires "not less than 20%" of definite appropriation to be used for state programs	No change	No change	No change

1/ Based on Senate bill, January 29, 1980.

2/ Based on House committee bill, April 24, 1980.

3/ OMB intent. Actual legislative language confused.