1975

**Arts and Humanities: Pell Amendments (1975): Report 04**

Claiborne Pell

Javits

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IN THE SENATE OF THE UNITED STATES

MAY 21, 1975

Mr. Pell (for himself and Mr. Javits) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

JULY 21, 1975

Reported by Mr. Pell, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, and to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

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

2 That this Act may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1975".

3 TITLE I—ARTS AND HUMANITIES

4 GRANTS TO THE AMERICAN FILM INSTITUTE

5 Sec. 101. (a) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection:

II—0
The Chairman is authorized to make grants to
the American Film Institute, a nonprofit corporation in-
corporated under the laws of the District of Columbia, for
the purposes described in subsection (c)."

(b) The amendment made by subsection (a) shall be
effective with respect to fiscal year 1976 and succeeding
fiscal years.

STATE HUMANITIES COUNCILS

Sec. 102. (a) (1) Section 7 of the National Founda-
tion on the Arts and the Humanities Act of 1965 is amended
by adding at the end thereof the following new subsection:

"(f) (1) The Chairman, with the advice of the National
Council on the Humanities, is authorized to establish and
carry out a program of grants in aid to assist the several
States in supporting not more than 50 per centum of the
cost of existing activities which meet the standards enu-
erated in subsection (c), and in developing programs in
the humanities in such a manner as will furnish adequate
programs in the humanities in each of the several States.

"(2) In order to receive assistance under this subsec-
tion in any fiscal year, a State shall submit an application
for such grants at such time as shall be specified by the
Chairman and accompany such applications with a plan
which the Chairman finds—

"(A) designates or provides for the establishment
of a State agency (hereafter in this section referred to as the State agency) as the sole agency for the administration of the State plan;

"(B) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out one or more of the objectives of subsection (e); and

"(C) provides that the State agency will make such reports, in such form, and containing such information, as the Chairman may, from time to time, require.

"(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 $100,000. 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 to the Chairman for making grants under this subsection to States and regional groups; and

"(B) the amount of such excess, if any, which re-
mains after reserving in full for the Chairman the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairman in equal amounts, but in no event shall any State be allotted less than $100,000.

"(4) (A) That part of any allotment made under paragraph (3) for any fiscal year—

"(i) which exceeds $62,500, but

"(ii) which does not exceed 20 per centum of such allotment,

shall be available, at the discretion of the Chairman, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

"(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairman for making grants to regional groups.

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

"(D) For the purposes of paragraph (3) and this paragraph, the term 'regional group' means any multi-State group, whether or not representative of contiguous States.
"(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available to the National Endowment for the Humanities for the purpose of carrying out section 5(c).

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

"(A) a group is not complying substantially with the provisions of this section;

"(B) a State agency is not complying substantially with terms and conditions of its State plan approved under this section; or

"(C) any funds granted to a group or State agency under this section have been diverted from the purposes for which they are allotted or paid;

the Chairman shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.”.

(b) The amendment made by subsection (a) shall be
effective with respect to fiscal year 1976 and succeeding fiscal years.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 103. (a) (1) (A) Section 11 (a) (1) (A) of the National Foundation on the Arts and the Humanities Act of 1965 is amended to read as follows:

"Sec. 11. (a) (1) (A) For the purpose of carrying out section 5, there are authorized to be appropriated $113,500,000 each for the fiscal years 1977 and 1978; and there are so authorized such sums as may be necessary for the fiscal years 1979, and 1980. Of the sums so appropriated for any fiscal year—

" (i) not less than 20 per centum shall be for carrying out section 5 (g); and

" (ii) 4 per centum shall be for carrying out section 5 (l). "."

(B) Section 11 (a) (1) (B) of such Act is amended by striking out all that follows “Humanities” and inserting in lieu thereof the following: “$113,500,000 each for fiscal years 1977 and 1978; and there are so authorized such sums as may be necessary for the fiscal years 1979 and 1980. Of the sums so appropriated for any fiscal year, not less than 10 per centum shall be for carrying out section 7 (f).”.

(2) Section 11 (a) (2) of such Act is amended (A) by striking out “July 1, 1976” and inserting in lieu thereof
“October 1, 1980” and (B) by striking out all that follows “not exceed” and inserting in lieu thereof “$25,000,000”.

(b) The amendments made by subsection (a) shall be effective on and after the last day of fiscal year 1976.

TITLE II—MUSEUM SERVICES AND EXHIBITIONS

PART A—SERVICES

SHORT TITLE

Sec. 201. This part may be cited as the “Museum Services Act”.

PURPOSE

Sec. 202. It is the purpose of this part to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may better be able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

INSTITUTE FOR THE IMPROVEMENT OF MUSEUM SERVICES

Sec. 203. There is hereby established, within the Department of Health, Education, and Welfare, an Institute for the Improvement of Museum Services (hereinafter referred to as the “Institute”). The Institute shall consist of a National Museum Services Board (hereinafter referred to as the
SEC. 204. (a) The Board shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate, and the following ex-officio members:

(1) the Director;

(2) the Librarian of Congress;

(3) the Archivist of the United States;

(4) the Commissioner of Education;

(5) the Secretary of the Smithsonian Institution;

(6) the Director of the National Gallery of Art;

(7) the Chairman of the National Endowment for the Arts; and

(8) the Chairman of the National Endowment for the Humanities.

The appointed members of the Board shall be broadly representative of the curatorial, educational, and cultural resources of the United States and of the general public.

(b) The term of office of appointed members of the Board shall be five years, except that—

(1) any such member appointed to fill a vacancy shall serve only such portion of a term as shall not have been expired at the time of such appointment; and

(2) in the case of initial members, three shall serve
for terms of four years, three shall serve terms of three
years, three shall serve terms of two years, and three
shall serve terms of one year.

Any appointed member who has been a member of the Board
for more than seven consecutive years shall thereafter be
ineligible for reappointment to the Board during the three-
year period following the expiration of the last such consecu-
tive year.

(e) The Chairman of the Board shall be designated by
the President from among the appointed members of the
Board. Eight appointed members of the Board shall consti-
tute a quorum.

(d) The Board shall meet at the call of the Chairman,
except that—

(1) it shall meet not less than four times each year;

(2) in cases where the Director determines that a
meeting of the Board is necessary, it shall meet when-
ever one-third of the total number of members request
a meeting in writing, in which event one-half of the total
number of members shall constitute a quorum; and

(3) whenever one-third of the appointed members
request a meeting in writing, it shall meet, in which
event one-third of the appointed members shall consti-
tute a quorum.
Ex-officio members of the Board shall not have a vote on the Board.

(e) Members of the Board who are not in the regular full-time employ of the United States shall receive, while engaged in the business of the Board, compensation for service at a rate to be fixed by the President, except that such rate shall not exceed the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed in Government service.

(f) The Board shall have the responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under this title. The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

DIRECTOR OF THE INSTITUTE

Sec. 205. (a) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. The Director shall be compensated at the rate provided for level V, United States Code, and shall perform
such duties and exercise such powers as the Board may prescribe.

(b) There shall be a Deputy Director of the Institute who shall be appointed by the President and shall serve at the pleasure of the President. The Deputy Director shall be compensated at the rate provided for grade 18 of the General Schedule set forth in section 5382 of title 5, United States Code. The Deputy Director shall exercise such powers as the Director may prescribe, and the Deputy Director shall serve as Director during the absence or disability of the Director, or in the event of a vacancy in the Office of Director. The position created by this paragraph shall be in addition to the number of positions placed in grade 18 of the General Schedule under section 5106 of title 5, United States Code.

ACTIVITIES OF THE INSTITUTE

Sec. 206. (a) The Director, subject to the management of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as

(1) projects to enable museums to construct or install displays, interpretations, and exhibitions in order to improve their services to the public;

(2) assisting them in developing and maintaining
professionally-trained or otherwise experienced staff to meet their needs;

(3) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(4) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting them in conservation of artifacts and art objects; and

(6) developing and carrying out specialized programs for specific segments of the public such as programs for urban neighborhoods, rural areas, Indian reservations, penal and other State institutions.

(b) Grants under this section may not exceed 75 per centum of the cost of the program for which the grant is made.

CONTRIBUTIONS

Sec. 207. The Institute shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Institute. Such grants, gifts, or bequests, after
acceptance by the Institute, shall be paid by the donor or
his representative to the Treasurer of the United States
whose receipt shall be their acquittance. The Treasurer of
the United States shall enter them in a special account to
the credit of the Institute for the purposes in each case
specified.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. (a) For the purpose of making grants under
section 206 (a), there are hereby authorized to be appro-
riated $25,000,000 for the fiscal year ending June 30,
1975, and $30,000,000 for each of the succeeding fiscal
years ending prior to October 1, 1978.

(b) For the purpose of enabling the Institute to carry
out its functions under this part, during the period beginning
on the date of enactment of this Act and ending October 1,
1978, there is authorized to be appropriated an amount equal
to the amount contributed during such period to the Institute
under section 207.

DEFINITION

SEC. 209. For purposes of this part, the term "museum"
means a public or private nonprofit agency or institution
organized on a permanent basis for essentially educational or
esthetic purposes, which, utilizing a professional staff, owns
and utilizes tangible objects, cares for them, and exhibits
them to the public on a regular basis.
PART B—EXHIBITIONS

SHORT TITLE

SEC. 221. This part may be cited as the "Arts and Artifacts Indemnity Act".

SEC. 222. (a) The Federal Council on the Arts and Humanities (hereafter in this part referred to as the "Council"), established under section 9 of the National Foundation on the Arts and the Humanities Act of 1965, is authorized to indemnify against loss or damage such items as may be eligible therefor under this part (as described in section 223)—

(1) in accordance with the provisions of this part;

and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purpose of this part and, consistent with such purpose, to protect the financial interest of the United States.

(b) For the purposes of this part, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5, United States Code.

ELIGIBLE ITEMS

SEC. 223. (a) The Council may provide indemnification under this part with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;
(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) motion pictures or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value and (B) the exhibition of which is certified by the Secretary of State or his designee as being in the national interest.

(b) Items eligible for indemnification under this part shall be covered by an indemnity while on exhibition in the United States. For the purposes of this subsection, the term "on exhibition" includes that period of time which begins at the point when the eligible items leave the premises of the lender or place designated by the lender and ends when such items are returned to the premises of the lender or place designated by the lender.

Sec. 224. (a) Any person, nonprofit agency, institution, or government desiring to obtain an indemnity for eligible items under this part shall make application therefore in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) An application under subsection (a) shall—

(1) describe each item to be covered (including an estimated value thereof);

(2) show evidence that the items are eligible under subsection 224 (a); and
(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related thereto.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this part, approve the application; and when so approved, the application shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement.

Sec. 225. (a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 224, the Council shall review the estimated value of the items for which the indemnity is sought. If the Council agrees with such estimated value, for the purposes of this part, the Council shall, after approval of the application as provided in subsection (c) of section 224, issue a certificate evidencing an indemnity as provided in subsection (b).

(b) Coverage under this part shall only extend to loss or damage in excess of the first $25,000 of loss or damage out of a single incident.

(c) There shall be no premium rates on any indemnity issued under this section.

Sec. 226. (a) The Council shall issue regulations providing for prompt adjustment of valid claims for losses which
are eligible for indemnification under this part, including
provision for arbitration of questions of the dollar value of
damages involving less than total loss or destruction of cov-
ered objects for which a certificate of indemnity has been
issued.
(b) In the case of a claim of loss with respect to an
item which is the subject of a certificate of indemnity under
section 225, the Council shall certify the validity of the claim
and the amount of the loss to the Speaker of the House of
Representatives and the President of the Senate.
Sec. 227. There are hereby authorized to be appro-
priated such sums as may be necessary—(a) to enable the
Council to carry out its functions under this part, and (b)
to pay claims certified pursuant to subsection 226 (b).
Sec. 228. The Council shall report annually to the
Congress—(a) all claims actually paid pursuant to this part
during the preceding fiscal year, (b) pending claims against
the Council under this part as of the close of that fiscal year,
and (c) the aggregate face value of contracts entered into
by the Council which are outstanding at the close of that
fiscal year.

EFFECTIVE DATE
Sec. 229. This part shall become effective—days
after the enactment of this Act.
That this Act may be cited as the "Arts and Artifacts Indemnity Act".

FEDERAL COUNCIL

SEC. 101. (a) The Federal Council on the Arts and Humanities (hereafter in this Act referred to as the "Council"), established under section 9 of the National Foundation on the Arts and the Humanities Act of 1965, is authorized to make agreements to indemnify against loss or damage such items as may be eligible therefor under this Act (as described in section 102)—

(1) in accordance with the provisions of this Act; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purpose of this Act and, consistent with such purpose, to protect the financial interest of the United States.

(b) For the purposes of this Act, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5, United States Code.

ELIGIBLE ITEMS

SEC. 102. (a) The Council may make an indemnity agreement under this Act with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;
(2) manuscripts, rare documents, books, and other
printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and
video tape;

(A) which are of educational, cultural, historical, or scien-
tific value and (B) the exhibition of which is certified by
the Secretary of State or his designee as being in the national
interest.

(b) An indemnity agreement made under this Act shall
cover eligible items while on exhibition in the United States.

For the purposes of this subsection, the term “on exhibition”
includes that period of time which begins at the point when
the eligible items leave the premises of the lender or place
designated by the lender and ends when such items are re-
turned to the premises of the lender or place designated by
the lender.

APPLICATION

Sec. 103. (a) Any person, nonprofit agency, institu-
tion, or government desiring to make an indemnity agree-
ment for eligible items under this Act shall make application
therefor in accordance with such procedures, in such form,
and in such manner as the Council shall, by regulation,
prescribe.
(b) An application under subsection (a) shall—

(1) describe each item to be covered by the agreement (including an estimated value thereof);

(2) show evidence that the items are eligible under subsection 102(a); and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related thereto.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this Act, approve the application and make an indemnity agreement with the applicant; and when so approved, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement; and for such purpose the Council is hereby authorized to pledge the full faith and credit of the United States.

INDEMNITY AGREEMENT

Sec. 104. (a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 103, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is
sought. If the Council agrees with such estimated value, for
the purposes of this Act, the Council shall, after approval
of the application as provided in subsection (c) of section
103, make an indemnity agreement.

(b) The aggregate of loss or damage covered by indem-
nity agreements issued under this Act shall not exceed
$250,000,000 at any one time.

(c) No indemnity agreement for a single exhibition
shall cover loss or damage in excess of $25,000,000.

(d) Coverage under this Act shall only extend to
loss or damage in excess of the first $25,000 of loss or dam-
age out of a single exhibition.

REGULATIONS
Sec. 105. (a) The Council shall issue regulations pro-
viding for prompt adjustment of valid claims for losses which
are covered by an agreement made pursuant to section 104,
including provision for arbitration of questions of the dollar
value of damages involving less than total loss or destruction
of such covered objects.

(b) In the case of a claim of loss with respect to an
item which is covered by an agreement made pursuant to
section 104, the Council shall certify the validity of the claim
and the amount of the loss to the Speaker of the House of
Representatives and the President of the Senate.
AUTHORIZATION OF APPROPRIATIONS

Sec. 106. There are hereby authorized to be appropriated such sums as may be necessary (a) to enable the Council to carry out its functions under this Act, and (b) to pay claims certified pursuant to subsection 105(b).

REPORT

Sec. 107. The Council shall report annually to the Congress (a) all claims actually paid pursuant to this Act during the preceding fiscal year, (b) pending claims against the Council under this Act as of the close of that fiscal year, and (c) the aggregate face value of agreements entered into by the Council which are outstanding at the close of that fiscal year.

EFFECTIVE DATE

Sec. 108. This Act shall become effective 30 days after enactment.
A BILL

To amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, and to provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

By Mr. Pell and Mr. Javits

MAY 21, 1975
Read twice and referred to the Committee on Labor and Public Welfare
JULY 21, 1975
Reported with an amendment