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Nomination Hearing (September 9, 1977)

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Livingston Biddle

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E.V.I.

LB

Keep
Separate.

Senator... For Overnight...

LB

This is the letter in which Berman calls our Senate bill "wholly unacceptable."

You'll remember that our bill gave the State these options to choose among:

A state Arts and Humanities Program

A new State program just for Humanities

An existing committee

if it had a plan for phasing in a majority

of governor appointed members in 3 years

or if it established a proper grievance

procedure to take care of complaints.

(The last was the Javits amendment adopted in Committee.)

Berman in this letter distorts the Senate bill and misinterprets it.

He mininterprets the Javits amendment.

I've prepared some special questions on this -- if they might be needed -- if this matter is discussed.

I wouldn't recommend breaking into our sequence with this, but thought you should be armed just in case.

Fusco told me it was this letter from Berman which caused him to have second thoughts about him. Fusco worked hard to come up with a compromise in the Senate -- Berman calls it wholly unacceptable.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WASHINGTON, D.C. 20508



July 29, 1976

Honorable Harrison A. Williams, Jr.
Chairman, Committee on Labor
and Public Welfare
United States Senate
Washington, D.C. 20510

*See
pages*

Dear Mr. Chairman:

To assist in the work of the conferees, we are writing to express the Administration's views on S. 3440 and H.R. 12838, the Arts, Humanities, and Cultural Affairs Act of 1976 as passed by the Senate and the House.

This legislation would reauthorize the National Foundation on the Arts and the Humanities. In addition, it would provide, for the first time, for the establishment within the Foundation or HEW of certain specific program categories with separate authorization amounts. This letter will discuss these various proposals in turn.

Both bills provide for specific authorization levels that are in excess of the Administration's requested levels for Fiscal Year 1978 and authorize "such sums" for Fiscal Years 1979 and 1980. While neither bill exceeds the Administration's proposed authorizations for Fiscal Year 1978 for the basic unencumbered Foundation funding levels, when all the separate authorizations for Federal dollars are added, the House and Senate-passed bills exceed the Administration's proposed level by over \$40 million. The Administration has also consistently requested equal levels of funding for the two Endowments. We favor the authorization levels proposed by the Administration, stated in specific terms.

We are against the establishment of additional categorical authorities designed to provide support for specific cultural constituencies. Such authorities hinder the ability of the

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Foundation to respond in a flexible way to the rapidly changing needs of the cultural community. They also run counter to the presently mandated system of policy formulation developed by the National Councils and panels of experts. This system has worked well in the past and has been responsive to the needs of the field and the wishes of the Congress as expressed in its oversight review.

The Administration continues to be opposed to the establishment of a Museum Services Institute because it does not believe a separate organization will best serve the interests of the museum field. Such an Institute is an unnecessary administrative structure which, in either version of the bill, would create difficulties both in terms of organization and lines of responsibility. In addition, the Administration is opposed to the provision for unlimited funding to match donations to the Institute.

We believe strongly that a Museum Services Institute, if established, should not reside in the National Foundation on the Arts and the Humanities. We recommend that the Committee consider deferring establishment of the Institute pending further study of its structure and placement.

Both versions would establish various challenge grant programs within both Endowments. The House version would establish a program within each Endowment to provide support to "cultural institutions in great need." The Senate version would establish a program similar to the House version within the Arts Endowment and would establish a "Bicentennial" challenge grant program, within the Humanities Endowment, tied to the "Bicentennial" of the Constitution.

The existing legislation for the Foundation already provides authority to carry out a challenge grant program in either Endowment. Thus, the establishment of these new special authorities is duplicative. However, we believe the House version would be preferable provided the program is split into separate programs, one for the Arts and one for the Humanities, each with its own name and identity and authorization.

Moreover, existing legislation already enables the Humanities Endowment to support Bicentennial-related activities. We are opposed to the establishment of a categorical authority in this area, and strongly believe that unrestricted challenge grants should be equally available to humanities and arts institutions.

The Senate bill authorizes the establishment of an arts education program within the Arts Endowment to support teacher training, developmental activities and materials dissemination. The House version contains no comparable provision.

The education constituencies of the Foundation have many questions concerning this title. We, therefore, believe it requires further study and we recommend that it not be adopted.

The Senate version also contains an "American Bicentennial Photography and Film Project" and assigns the responsibility to carry this out to the National Endowment for the Arts. The substantive and technical problems in the Senate bill would make it impossible for the Arts Endowment to carry out the project on behalf of the Congress at the quality level requested. Therefore, we urge deletion of this provision.

S. 3440 contains a provision that would permit the Foundation to operate an independent program for disposal of excess and surplus Federal property. The Federal Property and Administrative Services Act of 1949, as amended, permits Federal agencies, under regulations of the General Services Administration, to make excess property available for use by grantees. The National Foundation on the Arts and the Humanities, therefore, is already authorized to make available to its grantees Federal excess property subject to the limitations imposed by regulations applicable to all Federal agencies. We believe that an effective Federal property program, including the utilization and disposition of excess property is dependent upon uniform administration as provided for by the Federal Property and Administrative Services Act. Additional statutory authorizations that would enable individual agencies to administer separate property programs would not be in the Government's interest. Consequently, we recommend against the provision in Section 106 of the Senate bill which would establish such a program in the Foundation and we urge that the House version be adopted.

Our final concern relates to the provisions of the Senate bill dealing with the State humanities programs. The Arts Endowment has no comment on the section. The Administration has not sought any amendment relating to these programs, and the parts of the Senate bill which relate to State humanities committees and State humanities agencies are wholly unacceptable to the Humanities Endowment. Despite a late amendment which appears to offer the possibility of the volunteer State committees continuing, the Senate legislation clearly

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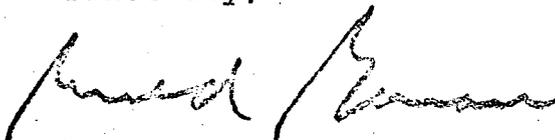
intends that they be replaced by State agencies within, at most, three years. It permits no humanities program to operate except through the intermediacy of the Governor of each State.

All witnesses from the humanistic community have indicated that the Senate provisions are inappropriate and inoperable; furthermore there is no State on record as supporting the proposed change. The House bill on the other hand, provides strict guidelines for the conduct of State programs; and, these granted, it makes possible the continuation of volunteer State committees or the establishing of State humanities agencies where that may prove advisable. The Humanities Endowment strongly prefers the House version in this regard.

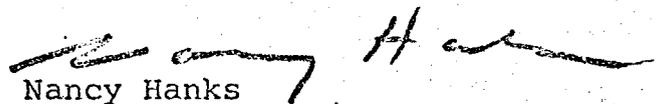
We share the objective of the conferees that sound, effective authorizing legislation be enacted for the Foundation, and urge that the objectionable provisions we have cited be deleted in the legislation that reaches the President's desk. Should they be retained, we would seriously consider recommending to the President that he not seek appropriations to implement them.

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

Sincerely,



Ronald Berman
Chairman
National Endowment for
the Humanities



Nancy Hanks
Chairman
National Endowment for
the Arts

cc: Honorable Jacob K. Javits