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Congressional Arts Caucus

UPDATE #19
October 24, 1990
101st Congress
2nd Session

SENATE PASSES INTERIOR APPROPRIATIONS BILL WITH NEA OBSCENITY/PROCEDURAL CHANGE AMENDMENT; REJECTS HELMS AMENDMENTS

After several hours of debate on the accomplishments of and controversy surrounding the National Endowment for the Arts (NEA), the Senate today passed the Interior Appropriations Bill for Fiscal Year (FY) 1991 (HR 5769), including budget figures for the NEA, National Endowment for the Humanities (NEH) and Institute of Museum Services (IMS). The Senate adopted an amendment offered by Senators Orrin Hatch (R-UT), Claiborne Pell (D-RI), Edward Kennedy (D-MA) and Nancy Kassebaum (R-KS) containing obscenity and child pornography provisions and procedural changes for the NEA grant-making process while it rejected two Sen. Jesse Helms (R-NC) amendments calling for specific areas of grant content restrictions. A Helms amendment concerning religion was accepted by voice vote.

The Hatch amendment, accepted by a vote of 73-24, contains the following provisions:

Obscenity/Child Pornography

- 1) Determinations of whether or not an art work is obscene or is child pornography would be made by the courts.
- 2) After a final court ruling that a federally funded work is obscene or is child pornography, the person or group convicted for violation of obscenity or child pornography laws will be debarred for not less than 3 years or until the grant money is repaid -- whichever is longer.
- 3) The person or group receiving or using NEA funds for the work must repay the grants funds to the government. If for any reason they do not repay, any group which gave NEA funds to them would have to repay. Any person or group which is liable for repayment of the NEA funds and fails to do so will be ineligible for any NEA funding in the future.

Procedural Changes

Including: creation of a panelist bank of qualified arts professionals and knowledgeable lay persons and the appointment of knowledgeable lay people to the review panels; requirement of site visits (where necessary and feasible), followed by a written report to panelists; requirement for rotating panel membership; prohibition against service on a review panel by an individual or any employee of an organization with a pending application for NEA assistance.

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The Senate Appropriations Committee (Robert Byrd, D-WV, Chairman) report called for the continuation of language included in last year's appropriation bill which stipulated that the NEA and NEH may not award grants for materials which "may be considered obscene, including but not limited to depictions of sadomasochism, homo-eroticism, the sexual exploitation of children, or individuals engaged in sex acts and, when taken as a whole, does not have serious literary, artistic, political or scientific value." The adopted Hatch amendment would replace this language.

The Senate began by defeating by a vote of 29-70 an amendment offered by Sen. Helms stating that no NEA funds could be used "to promote, distribute, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs." After acceptance of the Hatch amendment, Sen. Helms offered an amendment stating that no NEA funds could be used "to provide financial assistance to an individual whose family income exceeds 1500 percent of the income official poverty line as defined by the Office of Management and Budget . . ." This was defeated by voice vote.

Finally, Sen. Helms proposed an amendment stipulating that no NEA funds could be used "to promote, disseminate, or produce material which denigrates the objects or beliefs of the adherents of a particular religion." This amendment was adopted by voice vote with the understanding that it would be further considered in conference. Sen. Helms then agreed not to offer another proposed amendment. The entire bill was then passed.

Conference on the bill will now follow.

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HOUSE PASSES FUNDING FOR CORPORATION FOR PUBLIC BROADCASTING

On October 21, the House passed the Conference Report on HR 5257, making appropriations for the Department of Labor, Health and Human Services including funds for the Corporation for Public Broadcasting (CPB). The House approved the CPB budget -- appropriated two years in advance in order to promote orderly program development-- for Fiscal Year (FY) 1993 at \$253.335 million and an additional \$65.33 million for satellite replacement.

The funding levels for the CPB reflect a 2.4% across the board cut for appropriations, but an increase from the FY '92 level of \$251.03 million for the general CPB budget. Appropriations for the public broadcasting satellite interconnection system are lower than the FY '92 amount of \$76.25 million; however, the CPB needed less work on the satellite and thus requested fewer funds.

The CPB is a private non-profit corporation which provides funds for public radio and television stations, and for independent producers to develop noncommercial programs nationwide.

Senate action on the Conference Report is still pending.