1990

Legislative History of the Reauthorization of the National Endowment for the Arts (NEA) (1990): Report 15

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ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

June 28, 1990.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAWKINS, from the Committee on Education and Labor, submitted the following

REPORT

together with

DISSenting, individual, and additional views

[To accompany H.R. 4825] [Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND

The National Endowment for the Arts provides support, through grants and services, to non-profit organizations and individuals in dance, design arts, folk arts, literature, media arts, museums, opera and musical theater, and visual arts. The National Endowment for the Humanities supports research, education, and public programs in the humanities. Grants are provided to individuals, institutions, and organizations for projects and programs concerned with history, literature, philosophy, languages, archaeology, and other humanities disciplines.

The Institute of Museum Services provides grants for general operating expenses and conservation activities for all types of museums, including aquariums, arboretums and botanical gardens, art and natural history museums, science and technology centers, history.
nergy museums and historic sites, nature centers and zoos. It is the only source of federal support for such basic operating expenses as climate control, security, and maintenance. It also provides several technical assistance programs for small and emerging institutions and support projects to improve museum services.

History


Each of the Endowments has a Chairperson and Council, appointed by the President, to oversee the awarding of grants which it is authorized to make.

The Museum Services Act was first enacted as Title II of the Arts, Humanities and Cultural Affairs Act of 1976 (P.L. 94-462). The Act was thereafter amended in 1980 by P.L. 96-946 and in 1984 by P.L. 98-306. The Institute has a Director, who with policy direction from the National Museum Services Board, administers the programs and oversees the awarding of grants which the Institute is authorized to make. The Director and members of the Board are appointed by the President, subject to the advice and consent of the Senate.

Committee Action

Nine hearings were held by the Subcommittee on Postsecondary Education on the reauthorization of the National Endowment for the Arts, the National Endowments for the Humanities, and the Institute of Museum Services and related issues. On April 1, 1989, a hearing was held in Bozeman, Montana; in Charleston, South Carolina, on June 9; and Malibu, California, on March 5, 1990. Hearings were held in Washington, D.C., on November 15, 1989; and on March 21, April 4, April 19, May 2, and June 6, 1990. Testimony was received from 75 witnesses representing a variety of perspectives and viewpoints.

On March 20, 1990, the Administration transmitted to Congress Executive Communication number 3126, a proposal to amend the National Foundation on the Arts and Humanities and for other purposes. On May 15, Representative Pat Williams introduced the Administration’s proposal; H.R. 4825, which was referred to the Committee on Education and Labor. On June 19, after being discharged from the Subcommittee on Postsecondary Education, H.R. 4825 was ordered reported by the Education and Labor Committee, without amendments, by voice vote.

Background and Need for Legislation

H.R. 4825 extends authorization of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services for five years. Without this bill, the authorization for the agencies will expire on September 30, 1990.

The Committee began the reauthorization process as we were approaching the twenty-fifth anniversary of the National Foundation on the Arts and Humanities Act. From testimony about the record of the agencies under its aegis over the years, the Committee concludes that the National Endowment for the Arts, the National Endowment for the Humanities and the Institute of Museum Services have been very successful in encouraging artists and scholars, supporting cultural institutions and museums, and supporting an infrastructure of state and local activities enhancing the cultural and intellectual life of citizens throughout America. They have also acted as a catalyst for non-governmental expenditures for these activities. The 1989 edition of Giving USA reports that giving to arts, culture, and humanities in America has increased from $436 million in 1965 to $6.82 billion in 1988, an increase of more than 1400 percent.

Nevertheless, the reauthorization of this legislation has been dominated by controversy surrounding certain grants awarded by the National Endowment for the Arts. Over the last year, Congress has received numerous communications from constituents expressing concern about Arts Endowment grants, and others extolling the work of the Arts Endowment and its support of cultural activities in their communities. The Committee recognizes the concern Members of Congress have about the Endowment and its activities. The Committee acknowledges that there is a wide disparity of opinion in the Congress about the Endowments. This disparity ranges from those who would terminate the Endowment completely, to those who would place constraints on the content of work funded by the NEA. Some Members have suggested restructuring the method by which the Federal government distributes funds in support of the arts. Others have suggested total support of the President’s proposal to extend the Endowment without any content restrictions.

Given the complexity of the issues, the Committee wants to provide the opportunity for all members of the House to be involved in the reauthorization. In approving the legislation that would simply reauthorize the agencies for five years, without any major changes, the Committee hopes to provide for the fullest expression of points of view in debating this legislation on the House floor.

The Committee also would like to point out that the Fiscal Year 1990 Appropriations Act established an Independent Commission to review grantmaking procedures of the NEA, including the panel system, and to consider whether the standard for publicly funded art should be different than the standard for privately funded art. The Commission met for the first time on June 6 of this year. The Committee believes that it is unwise to make major changes in the Endowments until this Commission has had the time to make its report to the Congress, and the Congress has had the chance to review the Commission’s recommendations.
EXPLANATION OF THE BILL

H.R. 4825 reauthorizes the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services for five years. The bill is essentially an extension of current law, and changes are minor and technical in nature.

H.R. 4825 also amends the Arts and Arts-Related Indemnity Act, by increasing the level of insurance coverage available for exhibitions.

Authorization of appropriations for the National Endowment for the Arts for FY 1991 is $175 million; for the National Endowment for the Humanities, $165 million; for the Institute of Museum Services, $24 million. For fiscal years 1991 through 1995, such sums as are necessary are authorized for each agency.

The bill reflects a reaffirmation by the Committee that the Federal Government does indeed have an important role in the support of culture and arts in this country.

COMMITTEE VIEWS

NATIONAL ENDOWMENT FOR THE ARTS

In testimony by Chairman John Frohnmayer, the Committee learned of the growth of the arts throughout America since the NEA was created. In 1965, there were 37 professional dance companies, while today there are at least 250. There were about 60 professional orchestras, while there are more than 212. In 1965 there was one professional chorus in the country, while today there are 57. In the early 1960's there were only 27 professional opera companies in the United States, performing mostly classic European works with European artists in the lead roles. Today, there are 113 American opera companies and 64 musical theaters which create and perform traditional and original works and use American artists in major roles. By the end of 1965, there were 56 professional nonprofit theaters; today there are over 400. When the Endowment was first established, five states had arts councils with a total funding of approximately $2.7 million. Today there are arts councils in every state and territory with combined legislative appropriations amounting to more than $254 million. Local arts agencies have increased from a very few small, primarily volunteer councils to more than 600 councils with full-time professional staff, with combined budgets of well over $500 million.

In arts education, the Endowment began with a program of "Poetry readings in the Classroom," which reached 11,600 children. In the 1986-87 school year, the Artist-in-Residencies Program, which represents only one segment of the Endowment's current Arts in Education Program, funded 7,851 artists in residence at 11,187 sites in all 50 states and reached more than 3.5 million students.

Though the Endowment does not claim to be the sole reason for this remarkable growth and expansion of the arts throughout our country, testimony indicates that it has clearly played a major role. One of its major roles has been that of catalyst. In 1988, for example, the NEA awarded $119 million in grants across the country, which generated more than $1.36 billion in private funds.

This record has been largely overshadowed over the past year by the debate over controversial works that began in the spring of 1989. Throughout this debate, concern has been voiced about the accountability of the Endowment's grantmaking process and the need for a review and strengthening of that process. The Committee was pleased to receive testimony on this topic on March 21, 1990 from Chairman Frohnmayer, who has undertaken a thorough examination of the Endowment's grantmaking procedures and has recommended improvements to the panel process—procedures designed to make the process, as he stated, "more responsible, more responsive, and more visible" to the American people.

The Committee was also pleased to hear of the Chairman's program priorities for the future: arts education, multicultural and rural arts, international exchanges, and support for core institutions. The Committee has had a long-standing interest in enhancing the arts education activities of NEA. While there has been disagreement among educators and others involved in the arts around issues such as the appropriate nature and scope of NEA's arts education programs, testimony of witnesses representing all points of view and perspectives reflects an overwhelming consensus that arts education is the key to the future growth and vitality of the arts in America, and to the nurturing and development of the creative talent of our youth, upon which rests not only America's cultural leadership in many other areas as well. Therefore, the Committee concurs with Chairman Frohnmayer that arts education should be a priority for the agency.

The Committee has likewise maintained a continuing interest in assuring that Endowment programs reflect and are responsive to the rich cultural diversity of America and reach our rural and other underserved areas and populations. The Committee reaffirms its interest and is pleased by the Chairman's statement of commitment to these goals.

The Committee notes that there is interest in the Congress in establishing the Endowment a Landscape Design and Assessment program. Representative Kostmayer has introduced legislation toward that end. The Committee urges the Endowment to consider establishing, under the Design Arts' existing Design Advancement Program, such a new program. The Committee expects that such a new program would include the systematic identification, evaluation, and comparative assessment of rural landscape values, including a detailed and comprehensive assessment of nationally significant natural, historic, cultural and aesthetic values.

NATIONAL ENDOWMENT FOR THE HUMANITIES

The Committee applauds the work of the Endowment and Chairperson Lynne Cheney in bringing attention to the state of humanities education in our nation's schools and the programs initiated to improve the teaching of humanities at every level. The Committee also is pleased to hear of the record of the new Access to Excellence program designed to help make individuals and groups that may not be familiar with NEH programs more aware of them. This program promotes the Endowment's work among rural, inner-city, tribal and minority communities by providing information and
grant-writing assistance to first-time applicants on an individual basis, and helps address a long-standing concern of the Committee that the NEH should make more of its resources available to heretofore underserved Americans.

The problem posed by the deterioration of materials in America's libraries and other repositories of materials comprising much of our nation's cultural and intellectual heritage and research resources for humanities scholarship has been a concern for some time of the Committee. It was the focus of a hearing by the Subcommittee on Postsecondary Education in 1987. The Committee was pleased therefore, to note the multi-year plan presented to Congress in 1988 by Chairperson Cheney for accelerating the agency's effort to deal with the problem. The expansion of NEH's efforts to include material culture collections, through the new National Heritage Preservation program, is also to be commended.

The media program and the NEH

The Committee wishes to note the unique role played by the Endowment's media program in providing broad public access to the humanities. Not only has the NEH provided funding for a large number of video projects that have filled significant voids in public understanding and appreciation of American history and culture, it has (through a partnership with public television) reached millions of people with its documentaries and dramas. All Endowment-funded media projects must be offered to public television for distribution, and approximately 95 percent are aired by the Public Broadcasting Service, most in prime evening hours.

Technology has made it possible for public television to reach into 98 percent of America's homes, and it has proved to be an ally in extending the reach of the Endowment's programs. Testimony before the Committee on May 2 highlighted the reach provided by public TV. Ken Burns, an independent film producer who received an Endowment media grant for a video documentary on Thomas Hart Benton, noted that his film premiered in conjunction with the opening of a special museum exhibit of Mr. Benton's works. The museum director noted at the time that his exhibit would have to remain open for 44 years to reach the number of people Mr. Burns' documentary would reach in one night on public television.

The Committee notes this not to question (in any way) the substantial value and unique cultural experience provided by museum programs but rather to point up the reality of the technological age in which we live.

The Committee also notes that people are becoming increasingly accustomed to learning through video. Indeed, these segments of the population we most want to reach with humanities programs (including the young and economically disadvantaged) are particularly comfortable with television. Moreover, they increasingly watch not only in their homes but in their classrooms as well. Video programs of high quality can become an important resource for teachers struggling to interest students at all levels in our history and cultural heritage, and they are bound to become an essential classroom teaching tool for decades to come. Committee witness, Ken Burns, has recently finished an epic series on the Civil War that will be aired by the Public Broadcasting System during the fall of 1990. It is an example of an NEH media project that brings history to life—letting students of all ages feel the choices, conflicts and emotions confronted by earlier Americans in a particularly important period in our national history.

The Committee recognizes that while media programs deliver a substantial return on dollars invested because they reach such large numbers of people, they are nevertheless very costly to produce. It also recognizes that there are many valuable programs which must be funded with limited humanities dollars. But we urge the Endowment, in allocating its resources, to consider the cost effectiveness of electronic distribution and the predisposition of today's students (both young and old) to learn from video.

The Committee also strongly encourages the NEH to explore ways of encouraging wide placement of its media programs in America's schools and libraries and the development of an effective, non-broadcast distribution system.

Information and data collection at NEH

The 1986 amendments to the National Endowment on the Arts and Humanities Act directed the NEH to develop a practical system of national information and data collection which would provide the basis for an understanding of the state of the humanities in America.

The NEH has accomplished much since 1986 in the development of a practical system of national information and data collection. The Committee applauds the production of a compendium of data on the humanities that will be released in October, 1990, and encourages the NEH to update and disseminate future such compendia on an annual basis. Of particular interest to the Committee will be the response of the humanities community at large to the compendium as well as suggestions the community may have for improvement and/or expansion of this potentially useful reference work.

The Committee is pleased to learn of the Endowment's initiation of consultation on data and information issues with members of the humanities and higher education communities and encourages the agency to continue such contacts with appropriate groups.

The Committee encourages the Endowment to make known its interest in receiving grant applications for projects to collect and analyze specialized data on the humanities and for secondary analysis of data relevant to understanding trends in the humanities. It is assumed that such applications would be subject to the regular peer review process.

The State humanities councils

Testimony from representatives of State Councils and participants in their programs reinforce the importance of the public-private partnership they exemplify so well. Their role in promoting public involvement in the humanities, and research and scholarship within their states was well documented to the Committee as one of the most successful aspects of the National Endowment's overall program. Among many examples are programs described in the testimony of Roberta Cappe, a volunteer member of the Missouri Humanities Council. The programs of the Missouri Council en-
compassed a broad range of topics and activities that focused on the history of communities and the state as well as contemporary issues. In the testimony of Robert Vaughn, the Committee learned of a Virginia state humanities program that is effectively using public humanities programs in combatting illiteracy in a seven-county region with an illiteracy rate of over 50 percent. The public discussion drew a standing room audience for all four of its meetings.

From this and other testimony, the Committee concludes that the vitality and well-being of the Councils is extremely important to the overall condition of the humanities in our nation.

The humanities infrastructure

The Committee was interested to learn, from Richard Lyman, who represented the National Humanities Alliance and the Association of American Universities, of the independent national organizations that make up to a significant extent the humanities infrastructure supporting scholarship throughout the United States. NEH project support for these institutions has become increasingly important; however, the Endowment’s focus on innovation limits the kinds of support available. The Committee is concerned that these free standing institutions—especially independent research libraries—are threatened because their endowments and other sources of regular income are inadequate to support their regular operations. The NEH is encouraged to consider ways that the Endowment could be more helpful to these institutions that are so vital to the health of American scholarship.

THE INSTITUTE OF MUSEUM SERVICES

Since its inception in 1976, the Institute of Museum Services (IMS) has awarded 8,886 grants and involved thousands of museum professionals in its peer review process. Testimony from witnesses representing a wide range of museums in terms of type, size, and geographical distribution across America has reflected a unanimity of opinion that the IMS fulfills a vital and unique function in supporting America’s museums and that essentially no changes are necessary in its enabling legislation.

The General Operating Support Program of the IMS was uniformly cited as the most important of IMS programs. Ellsworth Brown, President-elect of the American Association of Museums, characterized the Program saying, “We believe that the General Operating Support program, the foundation of the IMS, is unique in its service to the field and should be strengthened, both structurally and financially, to assist museums in their most central and fundamental functions. As no other federal agency provides funds to museums to assist in sustaining their infrastructure and ongoing operations, GOS grants ensure the long-term welfare of the nation’s cultural patrimony.”

The Committee commends the IMS, and in particular the National Museum Board and new Director, Mrs. Daphne Murray for initiating an in-depth analysis of the GOS Program funding Fiscal 1990 and 1991. Areas to be analyzed include the impact of general operating grant funds to museums, residual benefits to these institutions in other areas such as fundraising and the improvement of their professional standards, as well as the IMS’s overall administration of the grant program. As the first independent study to be undertaken of this important program, we eagerly await the results.

Because of the importance of the GOS Program, the Committee was disappointed to learn from Mrs. Murray, that the agency budget allows funding for less than one third of museums which request it.

Members of the Committee, as well as witnesses, expressed concern for the ability of the agency to respond to the needs of small and emerging museums. In her testimony, Mrs. Murray reported that the agency shares the concern and a commitment to addressing the needs of these museums through a number of approaches. Through the Museum Assessment Programs and the newly developed Conservation Assessment Program, IMS provides special technical assistance specifically directed to these institutions. Sixty-seven percent of all museums that have ever applied for MAP grants have had operating budgets less than $200,000. These two programs are non-competitive and provide direction to assist museums in becoming competitive for larger grants. In the highly competitive GOS Program, 127 out of 402 museums funded—25 percent—had annual operating budgets of less than $200,000. Another approach is through the Museum Assessment Program, which provides professional assistance on a non-competitive basis for an assessment of strengths and needs. Since the Program was initiated in 1981, 67 percent of all museums that have applied have had operating budgets under $200,000. The Committee applauds these efforts and urges the agency to continue to work to find ways to assist these museums.

During hearings, questions were focused on the ability of museums to remain accessible to the general public—as they are today. Many museums have low or no admission costs. It is estimated that there are more than 500 million visits to American museums each year. Concern was expressed that flat or declining public and private support may force museums to begin to charge admission or increase their current admission charges and that museum visits would decline. The testimony of many witnesses revealed a heightened awareness of museums as a powerful educational resource for the nation’s youth and the continuing education of citizens of all ages. Testimony revealed, as well, a commitment throughout the museum community to developing this educational potential and to providing the broadest possible, public access. However, witnesses were unanimous in expressing their opinion that Federal support makes it possible for their institutions to realize their commitment to these goals.

The Committee reaffirms its belief that this small, but important agency, is necessary to the continuing growth and development of our nation’s museums.

ARTS AND ARTIFACTS INDEMNITY PROGRAM

Since its enactment in 1975, the Arts and Artifacts Indemnity program, administered by the National Endowment for the Arts
has provided indemnity coverage for more than 300 exhibits. The
Program has assisted American museums in bringing outstanding
exhibitions which have contributed to the enrichment of the lives
of millions of museum visitors. Through the sharing of cultural
treasures, the Program has also helped to promote international
cooperation, understanding of other cultures, and good will. It is
the Committee's belief that this program has met the intent of its
enabling legislation and should continue to receive support.

Section 39 of the bill increases the aggregate level of insurance
available for art exhibitions under this statute at any one time
from $1,200,000,000 to $3,000,000,000. Section 40 of the bill in-
creases the amount of insurance available for a single exhibition
coverage to $125,000 to $300,000. The increases are necessary to provide
adequate coverage of loans protected by the Act. The higher limits
are a realistic accommodation for the effects of the dramatic in-
crease in the value of art objects since the current limit was estab-
lished. Section 41 of the bill amends the statute by adding layers of
$100,000 and $200,000,000, based on the total value of the exhibition. The
current statutory limits are $15,000, $25,000 or $50,000, de-
pending upon the value of the exhibition. The deductible layers
protect the U.S. Treasury from multiple claims for minor losses or
damage.

Since this program was instituted in 1975, there have been only
three valid claims totalling $104,716 to date; therefore it is antici-
patcd that these amendments will have no significant budgetary
impact.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 2(1)(C) of rule XI of the Rules of the
House of Representatives, the estimate prepared by the Congres-
sional Budget Office pursuant to section 403 of the Congres-
sional Budget Act of 1974, submitted prior to the filing of this report, is
set forth as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,

Hon. Augustus F. Hawkins,
Chairman, Committee on Education and Labor,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has pre-
pared the attached cost estimate for H.R. 4825, a bill to amend the
National Foundation on the Arts and the Humanities Act of 1965,
as ordered reported by the House Committee on Education and
Labor on June 20, 1990.

If you wish further details on this estimate, we will be pleased to
provide them.

Sincerely,

Robert D. Reischauer,
Director.

2. Bill title: Arts, Humanities, and Museums Amendments of
1990.

3. Bill status: As ordered reported by the House Committee on
Education and Labor.
4. Bill purpose: This bill amends the National Foundation on the
Arts and the Humanities Act of 1965, and for other purposes.
5. Estimated cost to the Federal Government:

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<tr>
<td>Estimated total outlays</td>
<td>140</td>
<td>379</td>
<td>304</td>
<td>410</td>
<td>426</td>
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The costs of this estimate fall in Function 500.

Basis of estimate: H.R. 4825 amends the National Foundation on
the Arts and the Humanities Act of 1965 by reauthorizing apro-
priations for the National Foundation on the Arts and Humanities
and the Institute of Museum Services. The amount authorized for
1991 is stated in the bill; such sums as may be necessary are au-
zation are the 1991 amount increased for projected annual infla-
tion. Estimated total outlays assume full appropriation of the
amounts authorized and assume continuation of the current spend-
ing pattern.

This bill also proposes a change to the Arts and Artifacts Indem-
nity Act. The maximum limits of coverage for agreements entered
into by the Council are currently $1.2 billion in total and $125 mil-
lion for a single exhibit. This amendment would raise the current
limit for the aggregate maximum amount of coverage to $3.0 bil-
lion, increasing the potential liability to the government by $1.8
billion. It is not known if, or when, any of the $1.8 billion would
need to be funded. Since its enactment only two claims have ever
been filed. The most recent claim was made in 1989 and was for
$4,700. While there could be increased costs to the federal govern-
ment, CBO has no basis on which to make a precise estimate.

6. Estimated cost to state and local government: None.
7. Estimated comparison: None.
8. Previous CBO estimate: None.
10. Estimate approved by: C.G. Nuckols for James L. Blum, As-
Assistant Director for Budget Analysis.

COMMITTEE ESTIMATE

With reference of the statement required by clause 7(a)(1) of rule
XIII of the Rules of the House of Representatives, the Committee
accepts the estimate prepared by the Congressional Budget Office.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(3)(c) of rule XI of the Rules of the House of
Representatives, the Committee estimates that the enactment of
H.R. 4825 will have no inflationary impact on prices and costs in
the operation of the national economy. It is the judgment of the
Committee that the inflationary impact of this legislation as a component of the Federal budget is negligible.

OVERSIGHT FINDINGS OF THE COMMITTEE

With reference to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee's oversight findings are set forth in the Background and Need for the Legislation section of this report. No additional oversight findings are applicable at this time.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

In compliance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no findings or recommendations by the Committee on Government Operations were submitted to the Committee with reference to the subject matter specifically addressed in H.R. 4825.

SECTION BY SECTION ANALYSIS

Section 1 of the bill provides as a title for the Act, the "Arts, Humanities, and Museums Amendments of 1990."

Section 2 of the bill amends the definition of "the arts" in the National Foundation on the Arts and the Humanities Act of 1965, referred to as "Act" through section 31 of this section-by-section analysis, to recognize explicitly the inclusion of the traditional arts as practiced throughout the country within that term.

Section 3 of the bill amends the definition of the term "project" to underscore that programs which enhance public knowledge and understanding of the arts should be available to all peoples throughout the nation.

Section 4 of the bill changes the internal section references to the Code section numbers and amends the definition of a "project" so that a National Endowment for the Humanities (NEH) preservation project could use grant funds for renovation and construction purposes. Currently, NEH may fund renovation and construction activities only with challenge grant funds.

Section 5 of the bill makes several changes to section 5(c) of the Act. Paragraph (2) is amended to recognize that excellence is embodied in the artistic standards applicable to the traditional arts. Paragraph (5) is amended to reference education explicitly among the types of arts projects which may be supported. New paragraphs (8) and (9) are added: the former describing authority to provide organizational and managerial assistance to arts organizations; the latter recognizing the authority of the National Endowment for the Arts (NEA) to support international arts activities. Paragraph (9) conforms the NEA's basic grant-making authority to that of the NEH, which was amended for this purpose in 1985.

Section 6 of the bill revises certain reporting requirements for state arts agencies. Currently, state arts agencies are required by the Act to provide information annually on their activities over the preceding two years. The bill requires this information to be reported annually only for the most recent preceding year for which information is available. The bill changes the requirement of reporting this information from the preceding two years to only the preceding year because elsewhere, the state has already agreed to provide annual reports. This method was decided upon after a costly and intense study undertaken with the state arts agencies to create an annual information collection system. The change would also prevent the undesirable affect of receiving duplicative information. The bill also increases the scope of the reporting requirements to include all projects funded by state arts agencies. This change also makes the requirement more compatible with existing state information systems.

Section 7 of the bill amends the NEA Challenge grant program authority to include a new emphasis for the use of Challenge grants: stimulating artistic activity and awareness with respect to the varied cultural traditions through the nation.

Section 8 of the bill strikes out the requirement in section 5(m) of the Act that a "national information and data collection" system be developed by NEA and inserts a requirement that such a system be employed. This change is being made because the system has already been developed pursuant to the requirements of the 1985 reauthorization. The provision that a plan be submitted to Congress within one year of the effective date of the 1985 Act has been accomplished and, therefore, that provision is also being deleted. The provision of the last sentence which currently provides that the state of the arts report was to be submitted by October 1, 1988 and biennially thereafter. The report for 1988 was submitted and a second one will be submitted in accordance with the current law by October 1, 1990. The bill would require submission of the next report in 1992, and quadrennially thereafter. Generally, changes in the arts fields do not occur so rapidly as to warrant a full-scale report to the Congress and the President every two years. A four-year interval would provide more perspective and thus permit a more significant report. Developments that might occur between reports could be brought to the attention of Congress through NEA planning documents, Congressional budget submissions and reports, or other appropriate formats.

Section 9 of the bill amends the current statutory language to provide that the National Endowment for the Humanities is being created. The current language states that "a" National Endowment is being created.

Section 10 of the bill amends the introductory paragraph of Section 7(c) of the Act to provide for the different means by which the NEH Chairperson may carry out the nine program areas set forth. The amendment specifically provides that "contracts, grants, loans, and other forms of assistance" may be used by the Chairperson. The Chairperson has always been that the Chairperson use such authority, even though such references only appear in paragraphs 2, 3 and 7 of Section 7(c) of the Act. Congress provided NEA with express authority to enter into contracts in 1967 when Section 7(c) was amended to provide authority to carry out a program of "contracts with, or grants-in-aid to, groups or individuals . . . ." Because the general authority has been extended to all programs, reference to the particular methods, e.g., contracts, grants and loans, in paragraphs 2, 3 and 7 of Section 7(c) have been deleted.
Also, it amends Section 7(c) of the Act by adding paragraph (10), which pertains to fostering interchange of information in the humanities, by adding to the Chairperson's authority to foster programs and projects which provide access and preservation of certain materials. Reference to "projects" allows preservation funds to be used for renovation and construction.

Section 11 of the bill makes a technical correction in the term used to describe the Chairperson's responsibility for coordinating NEH's programs with other federal programs.

Section 12 of the bill specifies that whenever a State chooses to establish a State agency to administer the State's humanities plan, that State must designate the humanities council which is in existence on the date the State agency is established as the State agency. The current statutory language requires that only humanities councils that exist on the date of the enactment of the Arts and Humanities Act of 1985" are eligible to be designated the sole State agency. Such groups might no longer exist.

Section 13 of the bill revises certain reporting requirements for state humanities agencies, even though there are no such agencies at this time. Currently, state humanities agencies, if any existed, would be required to provide certain data on an annual basis under section f(2)(A)(viii) (I) and (II) of the Act. This requirement in current law relates to the level of participation by scholars and scholarly organizations and the extent to which programs are available to all people and communities in a given state. The bill changes the reporting requirement for these data from information for the preceding two years to the preceding year for which the information is available. With this change, information from only the preceding year is necessary. Annual reporting of this type of data is more compatible with existing state information systems.

Section 14 of the bill makes the same reporting changes to section (f)(3)(J) (i) and (ii) of the Act for state humanities councils or committees as was provided for in Section 13 with respect to state humanities agencies.

Section 15 of the bill is amended to delete the date by which the Secretary of Labor was to prescribe standards. The deadline has been met and the deletion does not affect the Secretary's authority to prescribe standards, regulations, and procedures.

Section 16 of the bill corrects the name of the National Endowment for the Humanities.

Section 17 of the bill strikes out the requirement in section 7(k) of the Act that a "national information and data collection" system be developed by NEH and inserts a requirement that such a system be employed. This change is being made because the system has already been developed in connection with the 1985 Act. The provision that a plan be submitted to Congress within one year of the effective date of the 1985 Act has been accomplished and, therefore, that provision is being deleted. The foregoing are the same as being recommended for NEA in Section 8 of the bill.

The last sentence of Section 7(k) currently provides that the state of the humanities report was to be submitted by October 1, 1988 and biennially thereafter. The report for 1988 was submitted and a second one will be submitted in accordance with the current law by October 1, 1990. The bill would require submission of the next report in 1992, and quadrennially thereafter. Generally, changes in the humanities field do not occur so rapidly as to warrant a full-scale report to the Congress and the President every two years. A four-year interval would provide more perspective and thus permit a more significant report. Developments that might occur between reports could be brought to the attention of Congress through NEH planning documents, Congressional budget submissions and reports, or other appropriate formats.

Section 18 of the bill repeals subsection 7(f) of the Act which required that a plan be submitted by NEH to the Equal Employment Opportunity Commission by January 31, 1986. Such a report was presented to EEOC by the date indicated, fulfilling the requirements of this subsection. NEH continues to be in compliance with EEOC requirements which no longer include submission of goals and plans by humanities agencies with less than 500 employees.

In place of the foregoing provision which has been deleted, a new provision has been inserted that a "group" applicant must meet certain statutory tests in order to qualify as a non-profit organization. This new provision is the same as the one found in Section 5(f) and is being added to be in conformity with NEA's provision.

A new subsection (m) has been added to Section 7 of the Act to provide express authority to the Chairperson with the advice of the National Council on the Humanities, to make an annual $10,000 award to the Jefferson Lecturer and up to five $5,000 awards to persons selected to be recipients of the Charles Frankel Prize. These awards have been given in the past by NEH with the knowledge and implicit approval of Congress. The NEA has the National Medal of Arts award program which was established in 1983. This new subsection is a parallel to the unnumbered paragraph which amends the statutory reference to reflect the renumbering of former section 529 as new section 15.
pleted and submitted to Congress, thereby fulfilling the requirements of this subsection.

Section 21 of the bill provides for a five year authorization of definite program appropriations for NEA, for fiscal years 1991 through 1995. It authorizes $125,800,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 22 of the bill provides for a five year authorization of definite program appropriations for NEH, for fiscal years 1991 through 1995. It authorizes $119,900,000 for fiscal year 1991, and through 1995. It authorizes $119,900,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 23 of the bill strikes section 110(1)(C) of the Act which provided for a one-time appropriation of funds for fiscal year 1977.

Section 24 of the bill extends the authorization of appropriations for NEA's Treasury for five years. It authorizes $13,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 25 of the bill extends the authorization of appropriations for NEH's Treasury funds for five years. It authorizes $12,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 26 of the bill extends the authorization of appropriations for NEA's Challenge Grant Program for five years, through fiscal year 1995. It authorizes $15,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 27 of the bill extends NEH's authorization of appropriations for Challenge grants for five years, through fiscal year 1995. It authorizes $15,150,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 28 of the bill extends the requirement if at the end of the ninth month of any fiscal year Challenge Grant funds cannot be used by one of the Endowments, that Endowment shall transfer the unused funds to the other Endowment. This provision has been in the law since 1976 when the Challenge program was first established, for the two Endowments but has never been used. At the inception of this new program, there may have been the concern that Challenge grantees might now be able to meet the 3 to 1 matching requirements which would result in some of the appropriated funds not being used during the fiscal year. However, such a concern has not been borne out. Therefore, deletion of the transfer provisions is consistent with the experience of the two Endowments and the independence they have as to all other programs.

Section 29 of the bill extends the authorization of appropriations for administrative funds for NEA by authorizing $21,200,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 30 of the bill extends the authorization of appropriations for administrative funds for NEH by authorizing $14,291,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years. It also restricts the $35,000 cap on the use of funds for reception and representation expenses only to appropriated funds. Funds reserved by NEH from other sources, such as gifts and bequests would not be subject to the $35,000 limitation.

Rising costs relating to events that we propose to make statutory, such as the Jefferson Lecture and the Frankel Prize make this change advisable.

Section 31 of the bill extends the authorization of appropriations for the two Endowments for five years and authorizes $175,000,000 for the National Endowment for the Arts and $165,000,000 for the National Endowment for the Humanities for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 32 of the bill adds "conservation" to the types of resources that are to be represented by the membership of the National Museum Services Board. This addition emphasizes the importance of conservation concerns to IMS programs, the museum community and the general public.

Section 33 of the bill changes the annual minimum number of meetings required for the National Museum Services Board from four to three. It conforms the authorizing legislation to actual practice, as approved annually by the Congress in appropriations acts.

Section 34 of the bill removes the restriction on the salary level of the IMS Director from the enabling legislation. The Director's compensation level is to be provided for in Chapter 53 of the U.S. Code by the amendment contained in section 35 of the bill.

Section 35 of the bill corrects a drafting error in current law, which refers to the "Chairperson" rather than the "Director."

Section 36 of the bill changes the reference to "artifacts and art objects" to "collections" to symbolize the importance of conserving all types of materials in the collections of the various types of museums supported by IMS. Museums eligible forIMS programs include, for example, zoos and botanical gardens, historic houses, and science and technology centers as well as art and other types of museums.

Section 37 of the bill eliminates two restrictions on the funding of projects to strengthen museum services. First, it removes the provisions limiting funding to professional museum organizations. This change would allow IMS to fund other types or organizations which propose worthwhile projects.

Second, it removes the one-year limit on these projects. The limit prevents extending the availability of funding in cases where a project is delayed by unexpected circumstances and prevents high quality, beneficial projects from being funded if they cannot be completed in one year. The following provision is renumbered to reflect the deletion.

Section 38 of the bill extends, for five years, the authorization of appropriations for all IMS programs, as well as the authorization of appropriations to match contribution to IMS. The bill authorizes $24,000,000 for fiscal year 1991, and such sums as may be necessary for the remaining fiscal years.

Section 39 of the bill amends section 5(b) of the Arts and Artifacts Indemnity Act, referred to as "Art" through section 41 of this section-by-section analysis, by increasing the aggregate level of insurance available through international exhibitions under the Act at any one time from $5,000,000 to $15,000,000. The current statutory limit is $5,000,000. This increase is necessary to meet the demand for coverage under the Act and to make the benefits of the Act more widely available. The increase is justified by the continuing escalation in art market values since the current limit was established.
The availability of this insurance is key to staging international exhibitions. Since this program was instituted in 1975, there have been only three valid claims totalling $104,760. Based on experience under this Act to date, it is anticipated that this amendment will have no significant budgetary impact.

Section 40 of this bill amends section 5(c) of the Act by increasing the amount of insurance available for a single exhibition to $300,000,000. The current statutory limit is $125,000,000. This increase is necessary to provide adequate coverage of international exhibitions. Since the current limit was established, availability of this insurance is key to staging international exhibitions. Since this program was instituted in 1975 only three certified claims totalling $104,760 have been presented. Based on experience it is anticipated this amendment will have no significant budgetary impact.

Section 41 of the bill amends section 5(d) of the Act by amending the deductible amounts under indemnity agreements by adding layers of $100,000 and $200,000 based on the total value of the exhibition. The current statutory limits are $15,000, $25,000 or $50,000, depending upon the value of the exhibition. The sliding scale formula used to determine the current limits should be applied to the increase in the per exhibition ceiling. The deductible layers protect the U.S. Treasury from multiple claims for minor losses or damage. This amendment would actually limit the budgetary impacts of claims against the Federal government by increasing the exposure of the exhibition organizer who would be responsible for arranging for additional insurance to cover the deductible amount.

Section 42 of the bill repeals Title IV of the Arts, Humanities, and Museums Amendments of 1985 which directed the Comptroller General to conduct a study to determine the feasibility of establishing a revolving fund comprised of payments made to the Federal government for right to use artistic and other works in the public domain with the funds to be used to supplement funding of the agencies under this Act. Work on the project was terminated after the Comptroller General's office consulted with members of Congress and determined that the study should not be pursued.

Section 43 of the bill amends 5 U.S.C. 5315 to add the Director of the Institute of Museum Services to level IV of the Executive Schedule for compensation purposes. Section 34 of the bill removes the level V provision which was included in the enabling legislation. The Director's compensation level was set at level V when the agency's budget was $3.3 million and the Director reported to the Director of Health, Education, and Welfare. The budget and degree of responsibility have increased substantially in the last four years. The budget is now $23 million and the Director reports to the President. The level IV more appropriately reflects the Director's responsibilities and role as advocate for the Nation's museums.

Section 44 of the bill makes these amendments effective on the date of enactment.

Changes in existing law made by the bill, as reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

National Foundation on the Arts and the Humanities Act of 1965

DEFINITIONS

Sec. 3. As used in this Act—

(a) * * *

(b) The term “arts” includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country and the study and application of the arts to human environment.

(c) * * *

(d) The term “project” means existing programs which further the purposes of this Act, and programs newly organized to further such purposes, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance the widest public knowledge and understanding of the arts, and includes, where appropriate, rental, or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also included—

(i) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on the Humanities, as the case may be (who are present and voting) approved of the grant or contract involving an expenditure for such purpose; and

(ii) for purposes of sections 5(1), (c)(10) and 7(h) only, the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner which to accomplish an artistic or humanitarian purpose, and (B) two-thirds of the members of the National Council on the Arts and the National Council on the Humanities, as the case may be (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.
ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE ARTS

SEC. 5. (a) * * *

(c) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups, or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards of authenticity or tradition, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(5) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;

(7) programs for the arts at the local level; [and]

(8) projects which enhance managerial and organizational skills and capabilities;

(9) international projects and productions in the arts; and

(10) other relevant projects, including surveys, research, planning, publications relating to the purposes of the subsection. In the case of publications under clause (8) paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 United States Code, 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 Education and Labor of the House of Representatives a report justifying any expenditure from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptiona talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

(g)(1) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in section 5(c) of this Act, and in developing projects and productions 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 of the several States.

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

(A) * * *

(E) contains—

(I) a description of the level of participation during the previous 2 years by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

(ii) a description of the extent to which projects and productions receiving financial assistance under this subsection are available to all people and communities in the State; and

(iii) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and

(ii) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies, and private nonprofit organizations on a national, State, or local level, for the purpose of strengthening quality by—

(A) * * *

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located; [and]

(F) fostering greater citizens involvement in planning the cultural development of a community[ ]; and

(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.

(m) The Chairperson of the National Endowment for the Arts shall, in consultation with State and local agencies, relevant organizations, and relevant Federal agencies, develop a practical system of national information and data collection on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields,
trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. [Not later than one year after the date of the enactment of the Arts, Humanities, and Museums Amendments of 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system.] Such system shall be used, along with a summary of the system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, [not later than October 1, 1988, and biennially thereafter] not later than October 1, 1992, and quadrennially thereafter.

ESTABLISHMENT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 7. (a) There is established within the Foundation [the]
National Endowment for the Humanities.

(c) The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;
(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements [including contracts, grants, loans, and other forms of assistance] with institutions or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;
(3) [award fellowships and grants to institutions or individuals for training and workshops in the humanities] initiate and support training and workshops in the humanities by making arrangements with institutions or individuals. Fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate non-profit institutions selected by the recipient of such aid, for stated periods of time;
(4) foster, through grants or other arrangements, with groups, education in, and public understanding and appreciation of the humanities;
(5) support the publication of scholarly works in the humanities;
(6) foster the publication and distribution of educational and cultural materials which can be made by other Federal agencies under existing programs;
(7) foster, through grants or other arrangements, with groups, education in, and public understanding and appreciation of the humanities;
(8) support the publication of scholarly works in the humanities;
(9) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons;
(10) foster programs and projects that provide access to and preserve materials important to research, education, and public understanding of the humanities.

(d) The Chairperson shall [correlate] coordinate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date of the enactment [the arts, humanities, and museums amendments of 1985,] the State agency is established, as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairperson finds—

(i) contains—

(viii) contains—

(I) a description of the level of participation during the previous two years of the State in any programs receiving financial assistance under this subsection;
(II) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsec-
tion are available to all people and communities in the State; and

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairperson. Each such application shall be accompanied by a plan which the Chairperson finds—

(A) • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • • ••
(1) The Jefferson Lecture in the Humanities awarded to a person for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

(2) The Charles Frankel Prize to honor persons who have made outstanding contributions to the public’s understanding of the humanities. Up to five persons may receive the award each year. Each award shall not exceed $5,000.

ESTABLISHMENT OF THE FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 9. (a) ... (d) The Council shall conduct a study to determine—

[(1) the nature and level of Federal support provided to museums; (2) the areas in which such support overlaps or is inadequate, particularly in case of emerging museums; (3) the impact of the Institute of Museum Services in carrying out its stated purpose; and (4) the impact and nature of conservation and preservation programs being carried out under this Act and other Federal laws and the areas in which such programs overlap or are inadequate.]

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) In addition to any authorities vested in them by other provisions of this Act, the Chairperson of the National Endowment for the arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to make advance, progress, and other payments without regard to the provisions of section 3648 of the Revised Status (31 U.S.C. [529] 3924); (2) to rent office space in the District of Columbia; and (3) to make other necessary expenditures.

(b) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation (A) without designation of the Endowment for the benefit of which such property is intended, and (B) without condition or restriction other than it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property. In any case in which the money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property. For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised. For the purpose of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(c) In selecting panels of experts under [cause (4)] subsection (a)(4) to review and make recommendations with respect to the approval of applications for financial assistance under this Act, each Chairperson shall appoint individuals who have exhibited expertise and leadership in the field under review, who broadly represent diverse characteristics in terms of aesthetic or humanistic perspective, and geographical factors, and who broadly represent cultural diversity. Each Chairperson shall assure that the membership of panels changes substantially from year to year, and that no more than 20 per cent of the annual appointments shall be for service beyond the limit of three consecutive years on a subpanel. In making appointments, each Chairperson shall give due regard to the need for experienced as well as new members on each panel.

(d) Panels of experts appointed to review or make recommendations with respect to the approval of applications or projects for funding by the National Endowment for the Arts shall, when reviewing such applications and projects, recommend for funding only applications and projects that in the context in which they are presented, in the expert’s view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural, or artistic merit. Whenever there is pending an application submitted by an individual for financial assistance under section 5(c), such individual may not serve as a member of any subpanel (or panel where a subpanel does not exist) before which such application is pending. The prohibition described in the previous sentence shall commence on the date the application is submitted and continue for so long as the application is pending.

([b] The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day for April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

(c) ([c]) The National Council on the Arts and the National Council on the Humanities, respectively, may each 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.

[(d)] (g)(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, programs, and programs for which financial assistance is provided by their respective Endowments under sections 5(c) and 7(c). Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) Such recipient shall comply with the requirements of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) The Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) 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 that provided such financial assistance, if such Chairperson may—

(C) recommendations designed to encourage making arts and humanities education available throughout elementary and secondary schools;

(D) recommendations for the participants by the National Endowment for the Arts and the National Endowment for the Humanities in arts education and humanities education in such schools; and

(E) an evaluation of existing policies of the National Endowment for the Arts and the National Endowment for the Humanities that expressly or inherently affect the Endowments' abilities to expand such participation.

(F) Not later than October 1, 1987, each Endowment shall submit to the Congress a report detailing the procedures used in selecting experts or making appointments to panels and the purposes applied by panels in making recommendations with respect to the approval of application for financial assistance under this Act, including procedures to avoid possible conflicts of interest which may arise in providing financial assistance under this Act.

[28]

[(A)] the state of arts education and humanities education, as currently taught in the public elementary and secondary schools in the United States; and

[(B)] the current and future availability of qualified instructional personnel, and other factors, affecting the quality of education in the arts and humanities in such schools.

[(2)] The Endowments shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the study required by this subsection.

[(3)] Not later than two years after the date of the enactment of this Act, the Endowments shall submit to the President, the Congress, and the States a report containing—

(A) the findings of the study under paragraph (1);

(B) the Endowments' views of the role of the arts and humanities in elementary and secondary education;

(C) recommendations designed to encourage making arts and humanities education available throughout elementary and secondary schools;

(D) recommendations for the participants by the National Endowment for the Arts and the National Endowment for the Humanities that expressly or inherently affect the Endowments' abilities to expand such participation.

(3) Not later than October 1, 1987, each Endowment shall submit to the Congress a report detailing the procedures used in selecting experts or making appointments to panels and the purposes applied by panels in making recommendations with respect to the approval of application for financial assistance under this Act, including procedures to avoid possible conflicts of interest which may arise in providing financial assistance under this Act.

[29]

AUTHORIZATION OF APPROPRIATIONS

Sec. 11. (a)(1)(A) For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,312,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990; $125,800,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 5(g).

(B) For the purpose of carrying out section 7(c), there are appropriated to the National Endowment for the Humanities $95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the years 1989 and 1990; $119,900,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995. Of the sums so appropriated for any fiscal
year, not less than 20 per centum shall be for carrying out section 7(f).

(C) There are authorized to be appropriated to the National Endowment for the Arts for the fiscal year ending September 30, 1977, not to exceed—

(i) $2,500,000 for planning pursuant to paragraph (1)(D) of section 4(i) of the Department of Transportation Act (49 U.S.C. 10(a)(2), or subparagraph (B) for an fiscal pursuant to paragraph (l)(D) of section 7(c);

(ii) $2,500,000 for interim maintenance pursuant to paragraph (1)(B) of such section 4(i); and

(iii) $250,000 for administrative expenses.] Sums appropriated for the purposes of this subparagraph shall remain available until expended.

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, [1990] 1995, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (9) of section 7(c); except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $9,172,800 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990. $13,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, [1990] 1995, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2); and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 7(h)(1); except that the amounts so appropriated to such Endowment shall not exceed $20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990. $15,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.

(C) If either Chairperson determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, the Chairperson shall transfer such funds to the other Endowment for the purposes described in section 5(1) or section 7(h)(1), as may be necessary.

(D) (C) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.

(4) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraphs (2) and (3). Such guidelines shall be consistent with the requirement of section 5(e), section 5(1)(2), section 70 and section 7(h)(2), as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this Act.

(x)(1) There are authorized to be appropriated to the National Endowment for the Arts $15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,583,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990. $21,200,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995, to administer the provisions...
of this Act, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $14,291,000 for fiscal year 1988, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990, $17,950,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995, to administer the provisions of this Act, or any other program for which the Chairperson of the National Endowment for the Humanities is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.

(d)(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

[(A) $165,000,000 for fiscal year 1986,]

[(B) $170,006,400 for fiscal year 1987, and]

[(C) $177,014,656 for fiscal year 1988.]  

(2) The total amount of appropriations to carry out the activities of the National Endowment for the Humanities shall be $175,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.

MUSEUM SERVICES ACT

TITLE II—MUSEUM SERVICES

NATIONAL MUSEUM SERVICES BOARD

Sec. 204. (a)(1) The Board shall consist of fifteen members appointed by the President by and with the advice and consent of the Senate. Such members shall be selected from among citizens of the United States who are members of the general public and who are—

(A) broadly representative of the various museums, including museums relating to science, history, technology, art, zoos, and botanical gardens, and of the curatorial, conservation, educational, and cultural resources of the United States; and

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

(1) it shall meet not less than [four] three times each year; and

(2) it shall meet whenever one-third of the appointed members request a meeting in writing, in which event seven of the appointed members shall constitute a quorum.

DIRECTOR OF THE INSTITUTE

Sec. 205. (a)(1) 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 of the Executive Schedule (5 U.S.C. 5316), and shall perform such duties and exercise such powers as the Board may prescribe.

(b)(1) The Director shall not delegate any of the Chairperson's Director's functions to any other officer who is not directly responsible to the Director.

ACTIVITIES OF THE INSTITUTE

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

(1) * * *

(5) assisting them in conservation of [artifacts and art objects], their collections,

(b)(1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements [with professional museum organizations] to provide financial assistance [to such organizations] in order to [enable such organizations to] undertake projects designed to strengthen museum services except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(12A) No financial assistance may be provided pursuant to this subsection for any project for a period in excess of one year.
(B)(2) No financial assistance may be provided under this subsection to pay for [the] operational expenses [of any professional museum organization].

(3) The aggregate amount of financial assistance made under this subsection [to professional museum organizations] shall not exceed 5 percent of the amount appropriated under this Act for such fiscal year.

(4) For purposes of this subsection, the term "professional museum organization" means a private, nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.

AUTHORIZATION OF APPROPRIATIONS

SEC. 209. (a) For the purpose of making grants under section 206 (a), there are authorized to be appropriated $31,600,000 for fiscal year 1986, $22,464,000 for fiscal year 1987, $23,362,500 for such fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.

(b) The aggregate amount of financial assistance made under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered.

(4) For purposes of this subsection, the term "professional museum organization" means a private, nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.

ARTS AND ARTIFACTS INDEMNITY ACT

INDEMNITY AGREEMENT

SEC. 5. (a) The aggregate amount of financial assistance made under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered.

(b) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $200,000,000.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $125,000,000.

(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is:

(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered; or

(3) $10,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.

ARTIFACTS INDEMNITY AGREEMENT

INDEMNITY AGREEMENT

SEC. 5. (a) The aggregate amount of financial assistance made under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered.

(b) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $200,000,000.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $125,000,000.

(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is:

(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered; or

(3) $10,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.

ARTS AND ARTIFACTS INDEMNITY ACT

INDEMNITY AGREEMENT

SEC. 5. (a) * * *

(b) The aggregate amount of financial assistance made under this Act shall not exceed $31,200,000,000 at any one time.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of $200,000,000.

(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is:

(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered; or

(3) $10,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.

TITLE IV OF THE ARTS, HUMANITIES AND MUSEUMS AMENDMENTS OF 1985

TITLE IV—ALTERNATIVE FEDERAL FUNDING OF THE ARTS AND HUMANITIES

SEC. 401. STUDY OF ALTERNATIVE FUNDING OF THE ARTS AND THE HUMANITIES.

(a) Study Required.—(1) The Comptroller General of the United States shall conduct a study to determine the feasibility of supplementing expenditures made from the general fund of the Treasury of the United States for the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services through other Federal funding mechanisms. The study required by this section shall consider, but is not limited to, the consideration of the following funding sources:

(A) A revolving fund comprised of payments made to the Federal Government through an extension of the existing Federal copyright period for artistic, dramatic, literary, and musical works.

(B) A revolving fund comprised of payments made to the Federal Government for the right to use or publicly perform artistic, dramatic, literary, and musical works in the public domain.

(2) In carrying out the study required by this section, the Comptroller General shall frequently consult with and seek the advice of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Register of Copyrights, the Chairman of the Labor and Human Resources Committee of the Senate, the Chairman of the Education and Labor Committee of the House of Representatives, the Chairman of the Committee on the Judiciary of the Senate, and the Chairman of the Committee on the Judiciary of the House of Representatives, concerning the scope, direction, and focus of the study.

(3) In conducting the study required by this section, the Comptroller General shall consider the impact which the implementation of each supplemental funding mechanism would have on:

(A) any international copyright treaties, commitments, and obligations to which the United States is a party;

(B) public participation in the arts and the humanities;
Section 5315 of Title 5, United States Code

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

- Deputy Administrator of General Services.
- Associate Administrator of the National Aeronautics and Space Administration.
- Director of the Institute of Museum Services.

Disentering Views of Hon. Joseph M. Gaydos and Hon. Austin J. Murphy

While I have been a strong supporter of the arts throughout my 22 years in Congress, I believe it is critical that we take a closer look at the way the National Endowment for the Arts (NEA) has been operating of late. This is especially necessary during the reauthorization of that agency and the others encompassed in H.R. 4825.

I cannot, in good conscience, support H.R. 4825 as it is being reported by the Committee on Education and Labor. I believe that the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services should be extended and supported, but in light of the public outcry concerning the suitability of public funding for certain works of art, it is not possible for me to agree to a straight five-year reauthorization of these agencies with no limitations on the use of the Federal dollars appropriated to them.

While it may well be true that only a handful of the 85,000 projects which received grants from the National Endowment for the Arts during its 25-year history are the focus of the current opposition to its reauthorization, the fact is that the public's views should prevail and that works that conflict with current standards of decency should not receive Federal funds, either directly or indirectly.

We are all aware of those few current projects—the photographic exhibit of Robert Mapplethorpe, a photograph by Andres Serrano, the Annie Springle performance at the Kitchen Theatre, and an exhibition of works by David Wojnarowicz—that have aroused the public, and quite frankly, offend me as well. And, at this point, it should be noted that this is not the first time questions have been raised about the suitability of grants for certain kinds of projects. In the 1985 reauthorization discussion, there were questions about the propriety of providing funds for certain poetry.

An issue that seems to be missing in much of the discussion is the one most often raised by my constituents: How can we allow works to be funded in any fashion if Federal dollars are the source of the funding? That is not only a logical and realistic question, it also deserves an answer.

My answer is that we should not be providing funds from the National Endowment for the Arts that are used to produce or to exhibit works that a significant number of people consider obscene or indecent.

To those who argue that to set limits beyond current court interpretations of obscenity would have the result of stifling artistic expression or have the appearance of censorship, I would argue that...
since only a handful of artistic works, whether visual or aural or performing arts are ever funded in any given year and that any limitations would only apply to an even smaller group, the chances of discouraging or censoring artistic expression are slim indeed. Furthermore, some limitations already exist. Only tax exempt organizations can qualify for funds. Only organizations that comply with Title VI of the Civil Rights Act of 1964 are eligible. Only those organizations that compensate persons involved at the prevailing minimum wage are qualified. And only those groups that comply with the requirements of the Drug-Free Workplace Act of 1988 can receive funds.

There is nothing strange or unusual about Federal agencies or the Congress setting limitations on the manner in which grants and awards are utilized. What's more, if you look at other Federally funded programs, we set all sorts of limitations on how the dollars can be spent and very often, require interim reports to ensure that the money is being spent in accordance with various rules and regulations.

Just last November, in fact, it was determined that we would set some restrictions on who would be eligible for Supplemental Loans. No one except me felt that it was an imposition to require that an applicant for an SLS loan have a high school diploma or a GED. No one but me felt it was too restrictive to prevent an applicant from using his or her loan to attend a career training school that had a student loan default rate above 30 per cent. And those aren't direct Federal grant dollars being handed out—these are private loans which are only guaranteed by the Federal government.

I believe that the Congress took the proper action during the 1990 appropriations process when it created an Independent Commission to review "the National Endowment for the Arts" grant making procedures, including those of its panel system and to consider "whether the standard for publicly funded art should be different from the standard for privately funded art."

The only thing missing from the charge to the Commission is for it to examine and determine what the proper role of the Federal government should be with relationship to the arts. There was a fatal flaw in the conference report, however. The 12-member Commission—four members chosen by the President, four by the Speaker, and Minority Leader of the House, and four by the President Pro Tem and Minority Leader of the Senate—expired September 30, 1990.

And since there was a major delay in naming the members of the Commission by the President, it has not been able to meet its statutory deadline for submitting its report to Congress. Actually the Commission had its organizational meeting on June 6 of this year and met on June 25 for its first full working day. Further, the Commission's staff director was named only one week ago, on June 21—both actions occurring some eight months after legislative action was completed.

At the very least, this Commission should be extended for another year or more so that it can perform its function. The debate on the NEA's structure for dispensing grants continues, more people are coming forward with ideas for revamping that system. The Commission, under its current charge, could serve to examine a variety of proposals, including those offered by the General Accounting Office (GAO) during testimony to the Subcommittee on Post secondary Education on June 6, 1990, and the suggestions put forth by Representative Coleman and his colleagues.

The GAO, for example, while noting that controls at the grant-making stage appear to be appropriate, said that controls over grant awards "cannot guarantee that funds will not be used in a manner inconsistent with section 304(a)."

GAO then suggested that NEA consider, adopting a procedure whereby grantees could seek advisory opinions at a later stage, to determine if there were any problems or a potential violation of the statute.

Our colleagues from Missouri and Wisconsin suggested that NEA funds be shifted so that more dollars would be available to State arts councils for distribution. This proposal needs more study, first, to determine if that would be in the best interests of the States and the art groups and, second, to look at the distribution levels.

Undoubtedly, other suggestions would be presented if people knew the Commission was going to have the time to fulfill its mission.

But, more importantly, we need to examine the deeper, more basic issue of the Federal government's role in the arts. Should taxpayers be funding the works of individual artists? Or should the efforts of the government be more directed toward enhancing the system of making artistic ventures more accessible to the general public and encouraging a greater appreciation of the arts by our children and youth?

The answers to these questions are critical, especially at this time when Federal dollars are limited because of budget constraints.

From a parochial view, there are funding issues to be considered. In Fiscal Year 1990, the three primary agencies in question—the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services—received a total of $299.2 million, made up of $144.1 million for NEA, $132.4 million for the humanities, and $22.6 million for museum services.

By way of contrast, the three agencies with responsibility for protecting the 90 million men and women who are employed in more than six million work places—the Occupational Safety and Health Administration, the Mine Safety and Health Administration, and the National Institute for Occupational Safety and Health—received a total of $527.3 million, made up of $270.7 million for OSHA, $170.5 million for NSHA, and $86.9 million for NIOSH.

What should be our focus? Should the National Endowments for the Arts and Humanities and the Institute of Museum Services re-
receive more than half of the amount for occupational safety and health? If we can't sufficiently protect our population at work, what is the necessity of putting these dollars into the arts, humanities, and museums?

As I have said before, the programs funded under H.R. 4825 provide significant dollars back to the communities in my district. The National Endowment for the Arts contributes $2,244,500 to a wide variety of programs Pennsylvania's 20th Congressional District. The National Endowment for the Humanities expends $919,837 and the Institute of Museum Services invests $245,566.

The total investment from the three programs is $3,408,500. This is the eighth largest source of grant dollars from Federal agencies for my Congressional District.

Thus, I am, always have been, and will continue to be a strong supporter of the arts, in general, and the National Endowments in particular. But I cannot ignore my own personal feelings about some of the works that have raised the ire of my constituents.

At the very least, we must adopt a shorter reauthorization period. The question then becomes how short—One year, Two? Three? Certainly, if the Commission is to function successfully, a one-year reauthorization period will not be sufficient. Three years, on the other hand, is not too different from five years and seems too long.

Personally, I opt for a two-year reauthorization.

I know there are those who will feel a two-year reauthorization term is unacceptable because it means that we will have to deal with this issue in an election year again.

That should not be the basis for rejecting the two-year plan. We currently have a five-year reauthorization and we are dealing with the issue in an election year.

The real focus should be on dealing with the critical issues and not sweeping them under the rug.

As I noted earlier, I believe the Independent Commission created in the Department of Interior's appropriation for Fiscal Year 1990 should be extended until January 31, 1992, at which time it would submit its report to the Congress. That report would include recommendations for improving the grants' process of the National Endowment for the Arts and members' thoughts on the best role for the Federal government in the arts.

And, finally, until such time as the NEA's grant-making process is improved so as to prevent grants for projects that develop or exhibit works that conflict with contemporary standards of decency, we must adopt language similar to that in the conference report on the 1990 appropriations for the Department of Interior which prohibited the use of funds for works depicting specific obscene acts which, when taken as a whole, do not have serious literary artistic, political, or scientific value.

I firmly believe that if we fail to modify the program, those who seek to end any Federal support for the arts will achieve their goal. It is only by being willing and ready to seek a compromise that we can continue Federal support for the arts.

Joseph M. Gaydos
Austin J. Murphy

Dissenting View of Hon. Glenn Poshard on H.R. 4825

All of my life I have worked with the artistic community and have been a strong supporter of the arts. I believe my voting record in the Illinois State Senate and in this Congress is 100 percent in favor of the arts. I believe in both Federal and State funding of the arts, and I certainly do not agree with those who say we should forego all public funding of the arts.

Everyone knows that the private sector could not begin to find all of the marvelous art projects the National Endowment for the Arts has supported over the years. We need public financing of the arts, but I do not believe the government is obligated to pay for so-called art which deliberately denigrates religious, racial, or ethnic groups or belief of this country—works which degrade the very principles for which this government stands.

If an individual wants to engage in that denigration on his own with his own money and it is within the limits of present law, then he certainly has that right. But, I believe the government has no obligation to fund those kinds of projects.

As I have considered this reauthorization, it strikes me that the debate gets at a larger issue—our democratic form of government. Democracy is a compromise, it's the middle ground between laissez faire, hands-off rule and autocratic, totalitarianism. In a democracy, we have limits, respect for personal property, for life, liberty, and the pursuit of happiness. We have limits, but we also have tremendous freedoms—including the freedom of expression. Our individual freedoms are an inspiration for people throughout the world, and one of the things which makes our nation so great and unique.

But, there is a limit to that freedom. The limit is not always clear, but it is there nonetheless. The limit is the boundary between freedom and license, between artistic expression and indecency, between art and obscenity, and between a political statement and a personal offense. It is very clear to me that some of the projects which the N.E.A. has funded have crossed that line. I believe that the majority of the people in my Congressional District would agree with me, and I believe that millions of Americans would agree.

The question is, what do we do about it? Do we ignore those who have been offended by the works in question? Do we cut off all funding to the N.E.A.? Or do we try to come up with some compromise?

The N.E.A. question is more troublesome because, although it involves money, it is about ideas. A more restrictive approach from Congress toward the Endowment does not constitute censorship. As it is now, now every work is funded, not every artist is awarded a grant. The N.E.A. peer review process has worked well, but I am repelled by the suggestion that only the arts community should be
involved in these decisions. After all, is this art for public consideration, comment and criticism, or merely a government subsidized arts club? It is vital for the public to support the N.E.A. for it to meet its potential.

True intellectual and creative activity usually happens in the private sector without much government involvement. It may be more appropriate for the N.E.A. to adopt a more mainstream approach, and some works may have to be financed by the private sector. I am not convinced the government must pay for the most controversial works which are produced. Just because the government does not fund it, that does not keep it from being drawn, painted, written or performed. To suggest that any restriction is censorship is disingenuous, because even now we do not subsidize each and every artist.

There is nothing wrong with challenging the N.E.A. grant process. I believe a stronger N.E.A. will result, an the public can believe in and Congress can continue to support.

INDIVIDUAL VIEWS OF E. THOMAS COLEMAN

During the reauthorization process of public hearings and both subcommittee and full committee markups of H.R. 4825, I, as well as other Republican Members of the Education and Labor Committee, voiced my concern about the lack of sufficient oversight by the National Endowment for the Arts of its grantmaking process, and the need for additional accountability to the public of the Endowment's panel review system.

During the past twelve months, I have become increasingly dismayed by the extreme position taken by critics of the Endowment, who accuse those who support the NEA as de facto supporters of pornography, and by the equally intransigent position of the arts establishment, which writes-off any critic of the Endowment's grantmaking process as a proponent of censorship. I, along with other moderate members, find myself in the middle of two extremes, neither of which, in my view, will prevail legislatively.

Accordingly, I have developed an alternative legislative package with Congressman Steve Gunderson which promotes increased access to the arts by the public through changes in resource allocation, and ensures increased accountability to the public whose tax funds support the Endowment, through structural and procedural reforms. Additionally, this proposal prohibits the funding of any art projects or productions which are obscene.

We chose not to offer this legislative alternative during either the subcommittee or full committee markups of H.R. 4825, because we strongly feel that the current reauthorization of the National Endowment for the Arts is not simply a routine refunding of a Federal agency for an additional five years. Because of the public scope of the controversy, which threatens the Endowment's continued existence, we felt that a full and open debate should occur on the floor of the House of Representatives.

I remain a strong supporter of public funding of the arts in America, but I also strongly feel that with such funding comes a requirement for accountability to the taxpayer. I intend to pursue reforms of the National Endowment for the Arts, which will bring about structural and procedural reforms at the Endowment, allocate additional funds directly to the States, and will create new priorities for arts education and broadened access to the arts in rural and inner-city areas.

E. Thomas Coleman,
Member of Congress.
ADDITIONAL VIEWS OF PAUL B. HENRY

As the Committee Report indicates, the bill reported by the Committee does not address the controversy over the National Endowment for the Arts' support for certain projects which many citizens find objectionable. The decision on the part of several of us not to offer amendments in Committee should be understood to be part of an agreement to address these concerns when the bill reaches the full House, and not in any way an indication that these issues should be or could be avoided in the reauthorization process.

I intend to offer the following language as an amendment to H.R. 4825 when the bill is considered by the House of Representatives.

The Chairperson and the National Council for the Arts shall ensure that any project supported by an award, grant, loan, or other form of support provided by the Endowment demonstrates a commitment to artistic excellence which is sensitive to the nature of public sponsorship, and does not deliberately denigrate the cultural heritage of the United States, its religious traditions, or racial or ethnic groups. The Chairperson and the National Council for the Arts shall ensure that any project supported by an award, grant, loan or other form of support provided by the Endowment does not violate standards against obscenity or indecency.

My amendment does not specifically address changes in the Endowment's process and procedures to assure greater accountability and openness, although those changes are also important. Changes in these areas are proposed in the amendment sponsored by Representatives Coleman and Gunderson.

The language I am proposing would amend Section 5(c) of the National Foundation of the Arts and Humanities Act, and add two additional criteria to the eight already in statute (H.R. 4825 would add two additional criteria) which the Chairperson and the Council must follow in determining which projects and/or artists to sponsor and support. My language would make explicit in statute the obligation of the Council and the Chairperson to not only make determinations about which applications have, for example, “significant merit” but in so doing be sensitive to the fact that these are public funds, and therefore should not be used to fund art which would be considered indecent or obscene, or which deliberately denigrate the cultural heritage of the United States, its religious traditions or racial or ethnic groups.

I do not try to specifically define indecency, just as Congress has not tried to delineate each potential manifestation in other contexts in which indecency has been prohibited. The agency must develop guidelines and other means to implement the statute. This amendment provides a framework for the Council and the Chairperson to apply, without removing their discretion and responsibility to evaluate grant applications. At the same time, it underlines the NEA's role as public sponsorship of art, and obligates the Council and the Chairperson to apply criteria consistent with that role in determining which projects to fund.

The courts have recognized, and common sense would hopefully dictate, that the federal government may establish criteria for federal grants programs. Whether any particular criterion or restriction is constitutional depends on the type of “subsidy” involved and the type of restriction attached to that subsidy. Restrictions on “entitlements” and similar-type subsidies are more suspect than, for example, guidelines to be followed in deciding which sculpture to place in front of a federal building. Restrictions aimed at “political” expression are obviously more suspect than are restrictions of other types. Thus broad statements about the constitutionality, or not, of any grant restrictions in any form are risky. But the denial of NEA/state arts grants because of the indecent content of the project proposed for funding has in the past been upheld by the federal courts.

I support public sponsorship of the arts and I believe in the NEA. Over its 25 years, the Endowment has funded thousands of excellent projects, and it has sown the seeds of much of our nation's rich cultural landscape. But the NEA's recent mistakes, few as they may be, certainly warrant the public's deep concern. My amendment provides a reasonable and responsible response, without undermining the role and work of the Endowment, the Council, and the Chairperson.

PAUL B. HENRY.