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*Mark**Marks**Saurie***DISCUSSION DRAFT****July 10, 1990**

AMENDMENT NO. _____

Calendar No. _____

Purpose: To establish sanctions for recipients of funds under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 who create, produce or support a project or production which is found to be obscene pursuant to State criminal law, and for other purposes.

IN THE SENATE OF THE UNITED STATES—101st Cong., 2d Sess.

S. 2724

To extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. HATCH

Viz:

- 1 On page 9, line 3, strike "and".
- 2 On page 9, line 6, strike the period and insert a semi-
- 3 colon and "and".

1 On page 9, between lines 6 and 7, insert the follow-
2 ing:

3 (9) by inserting at the end thereof the following
4 new subsection:

5 “(g)(1) The Chairperson of the National Endowment
6 for the Arts shall establish sanctions for groups or individ-
7 uals who receive funds pursuant to the provisions of sec-
8 tion 5 and use such funds to create, produce, or support a
9 project or production which is found to be obscene, as de-
10 termined by a ~~final~~ ^{final} criminal court decision after ^{final} appeals in
11 the State or States in which the group or individual pro-
12 duced such project or production or in the State or States
13 described in the grant award as the site or sites of the
14 project or production.

15 “(2) Except as provided in paragraphs (3) and (4), the
16 sanctions described in paragraph (1) shall include—

17 “(A) repayment by the individual or organiza-
18 tion which created or produced the project or pro-
19 duction found to be obscene pursuant to the provi-
20 sions of paragraph (1) to the Chairperson of the por-
21 tion of the funds received under section 5 which
22 were used to create or produce such project or pro-
23 duction in accordance with the provisions of para-
24 graph (3); and

*under existing
criminal
laws*

1 “(B) ineligibility of the individual or organiza-
2 tion which—

3 “(i) used funds received under section 5 to *create or*
4 produce the project or production found to be
5 obscene pursuant to the provisions of paragraph
6 (1); and

7 “(ii) was a defendant convicted in the
8 criminal action described in paragraph (1);

9 to receive funds under this Act for a period to be de-
10 termined by the Chairperson of the National Endow-
11 ment for the Arts, which shall not be less than 3
12 years from the date such project or production is
13 found to be obscene pursuant to the provisions of
14 paragraph (1) or until repayment of the funds pursu-
15 ant to the provisions of subparagraph (A), whichever
16 is longer.

17 “(3)(A) Except as provided in paragraph (4), funds
18 required to be repaid pursuant to the provisions of this sub-
19 section shall be repaid within 90 days from the date such
20 project or production is found to be obscene pursuant to
21 the provisions of paragraph (1).

22 “(B) If a State, local, or regional agency or arts group
23 received funds directly from the Chairperson under section
24 5 and awarded all or a portion of such funds to an individ-
25 ual or organization which used such funds to create,

1 produce or support a project or production found to be ob-
2 scene pursuant to the provisions of paragraph (1), and the
3 Chairperson determines that such individual or organiza-
4 tion is not able to repay such funds in accordance with the
5 provisions of paragraph (2) and this paragraph, then such
6 agency or group shall repay such funds to the Chairperson
7 within 30 days of the expiration of—

8 (i) the 90-day period described in paragraph (3);

9 or

10 (ii) the waiver period described in paragraph
11 (4).

12 “(C) Each individual or organization required to
13 repay funds pursuant to the provisions of subparagraph (A)
14 of paragraph (2) shall be ineligible to receive ^{further} funds under
15 this Act until such funds are repaid.

16 “(D) If a State, local, or regional agency or arts group
17 is required to repay funds pursuant to the provisions of
18 subparagraph (A) of paragraph (2) or subparagraph (B) of
19 this paragraph and fails to make such repayment in accord-
20 ance with the provisions of this subsection, then such
21 agency or group shall be ineligible to receive funds under
22 this Act until such funds are repaid.

23 “(4) The Chairperson of the National Endowment for
24 the Arts may waive the provisions of paragraph (3)(A) for
25 a period not to exceed 2 years.

