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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.


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-colon and “and”.

3
On page 9, between lines 6 and 7, insert the following:

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

"(g)(1) The Chairperson of the National Endowment for the Arts shall establish sanctions for groups or individuals who receive funds pursuant to the provisions of section 5 and use such funds to create, produce, or support a project or production which is found to be obscene as determined by a final criminal court decision after appeal in the State or States in which the group or individual produced such project or production or in the State or States described in the grant award as the site or sites of the project or production.

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

(A) repayment by the individual or organization which created or produced the project or production found to be obscene pursuant to the provisions of paragraph (1) to the Chairperson of the portion of the funds received under section 5 which were used to create or produce such project or production in accordance with the provisions of paragraph (3); and
"(B) ineligibility of the individual or organization which—

"(i) used funds received under section 5 to produce the project or production found to be obscene pursuant to the provisions of paragraph (1); and

"(ii) was a defendant convicted in the criminal action described in paragraph (1); to receive funds under this Act for a period to be determined by the Chairperson of the National Endowment for the Arts, which shall not be less than 3 years from the date such project or production is found to be obscene pursuant to the provisions of paragraph (1) or until repayment of the funds pursuant to the provisions of subparagraph (A), whichever is longer.

"(3)(A) Except as provided in paragraph (4), funds required to be repaid pursuant to the provisions of this subsection shall be repaid within 90 days from the date such project or production is found to be obscene pursuant to the provisions of paragraph (1).

"(B) If a State, local, or regional agency or arts group received funds directly from the Chairperson under section 5 and awarded all or a portion of such funds to an individual or organization which used such funds to create,
produce or support a project or production found to be obscene pursuant to the provisions of paragraph (1), and the Chairperson determines that such individual or organization is not able to repay such funds in accordance with the provisions of paragraph (2) and this paragraph, then such agency or group shall repay such funds to the Chairperson within 30 days of the expiration of—

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

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

"(C) Each individual or organization required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) shall be ineligible to receive funds under this Act until such funds are repaid.

"(D) If a State, local, or regional agency or arts group is required to repay funds pursuant to the provisions of subparagraph (A) of paragraph (2) or subparagraph (B) of this paragraph and fails to make such repayment in accordance with the provisions of this subsection, then such agency or group shall be ineligible to receive funds under this Act until such funds are repaid.

"(4) The Chairperson of the National Endowment for the Arts may waive the provisions of paragraph (3)(A) for a period not to exceed 2 years.
"(5) The Chairperson of the National Endowment for the Arts shall ensure that all recipients of funds under section 5 are subject to the sanctions described in paragraph (1).

"(6) The general information and guidance form provided to recipients of funds under section 5 shall include on such form the following:

"REPAYMENT OF FUNDS AND DEBARMENT.—In accordance with a Congressional directive, recipients of funds under section 5 of the National Foundation of the Arts and the Humanities Act of 1965 are requested to note the sanctions described in section 10(g) of such Act regarding repayment of funds and debarment.

"(7) The Chairperson shall develop regulations to implement the sanctions described in this subsection."