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## Appropriations (1996): Report 09

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8/7/95

**Arts, Humanities and Museums Amendments of 1995**

The Labor and Human Resources Committee, to whom was referred the bill, S. 865 to amend the National Foundation on the Arts and Humanities Act of 1965, the Museum Services Act and the Arts and Artifacts Indemnity Act, to reiterate the Federal role in the arts, and for other purposes, having considered an amendment in the nature of a substitute, reports favorably thereon and recommends that the amendment pass.

**I. Introduction**

The substitute to S. 856 provides for a continued Federal role in supporting arts and humanities projects for the people of this nation. Last reauthorized in 1990, the authority for the National Foundation on the Arts and Humanities Act expired in 1993. The Subcommittee on Education, Arts and Humanities therefore took action early this session to reevaluate the government's role in funding the arts and humanities. In this context, the substitute to S. 856 not only extends the Act and reiterates and renews the Federal Government's continued commitment to nurture its cultural heritage but makes significant and necessary changes to the existing statute with the goal of improving the Act and to instill greater public confidence and generating greater public benefit from the Agencies contained in the Act.

**II. Purpose and Summary of the Substitute to S. 856**

The substitute extends the Federal commitment to the arts and humanities while at the same time making significant improvement in areas which have been of great concern to both the general public and the United States Congress. Those areas include changes to reduce the Federal bureaucracy, decrease the likelihood of objectionable grants and provide greater responsibility to the States.

Toward these ends the bill provides for a five year reauthorization of the National Foundation for the Arts and Humanities Act of 1965 and reaffirms the government's commitment to, and interest in, supporting arts and humanities projects throughout the nation well into the future. Much debate this year centered on the appropriateness of government sponsorship of the arts and humanities and the committee has determined that the Agencies do provide valuable service to the people of the nation and should be maintained. Still, while S. 856 does reaffirm the importance of government leadership, it includes substantial and significant change in order to improve both the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH). The substitute to S. 856 reduces bureaucracy by merging administrative functions, capping administrative costs, and shrinking the National Councils. Provisions relating to each Agency have been separated by title in hopes of making the legislative language easier to understand. Perhaps of primary importance, S.856 includes provisions to further reduce the possibility of funding objectionable art by prohibiting subgranting and seasonal support, and limiting grants to individuals. In addition, the bill maintains language relating to regulations for applications including the decency language and strict sanctions against funding obscenity included during the 1990 reauthorization. Finally, the substitute to S. 856 gives greater

responsibility to State arts councils by increasing the percentage of funds allotted to the States.

Title I authorizes the establishment of the National Foundation on the Arts and the Humanities, provides for joint administration, one authorization of appropriations for each of the two Agencies, specific instruction regarding the division of funds, and caps administrative costs.

Title II provides the framework for the NEA and establishes four grant programs: Partnership grants (40 percent of authorized funds), National Significance grants (40 percent of authorized funds), Direct grants (10 percent of authorized funds) and Arts Education and Underserved Communities grants (10 percent of authorized funds). The role of the advisory panels has been modified substantially both in terms of structure and responsibility. The number of members serving on the National Council on the Arts has been decreased from 26 to 20 individuals with limitations placed on reappointment. The practice of subgranting and providing seasonal support grants have been prohibited. Individuals will be eligible for only two grants in a lifetime and no group, except for State agencies and regional groups, will be eligible for more than three grants a year. In addition, fellowships to individuals will be limited to the discipline of literature. A provision for recapturing funds from financially successful grants has been incorporated in the legislation.

Title III establishes three grant programs at the NEH and includes important administrative changes. The grant programs are Partnership (30 percent of authorized funds), National Significance (35 percent of authorized funds), and Research and Scholarship (35 percent of authorized funds). The number of members on the National Council on the Humanities has been reduced from 26 to 20 with limitations placed on reappointment. A provision for the recapture of funds from financially successful grants has been included in the legislation.

Title II of the Museum Services Act has been amended and consolidates the Institute of Museum Services (IMS) and the Library Services and Construction Act, creating the Institute for Museum and Library Services (IMLS). The new Institute will have one director overseeing two distinct programs headed by two deputy directors, one for library programs and another for museum programs. The museum division remains fundamentally unchanged. The library division, as with the museum division, will have its own advisory board staffed by appointees of the National Commission on Libraries and Information Sciences. Appropriations for the two programs will be handled separately and out of different appropriations subcommittees -- Labor-Health and Human Services and Education for the library program and Interior for the museum programs. The library program changes significantly from its present form, in that the focus under this legislation will be on two program areas -- technology and access, and services to special constituencies with an emphasis on children in poverty. Funds for the purposes listed would be provided to State library administrative agencies for State based programming. Five to 7 percent of total appropriations will be set-aside for joint programs between libraries and museums.

Finally, Title III of the Arts and Artifacts Indemnity Act has been amended and its scope expanded to include indemnification for exhibitions originating in the United States and touring

the United States, in addition to the current practice of providing indemnification for foreign exhibitions touring the United States. With the elimination of the Federal Council on the Arts and Humanities, the Arts and Artifacts Indemnity Program will be administered by the NEA, as is current practice.

### **III. Committee action and Votes in Committee**

On May 25, 1995, Senator Jeffords, (on behalf of himself and Senators Kassebaum, Kennedy, Pell, Dodd and Simpson) introduced S. 856, the Arts, Humanities and Museum Amendment of 1995, a bill to reauthorize the National Foundation on the Arts and Humanities Act of 1965 and to improve and extend the Acts and for other purposes.

A series of four hearings were held, one by Senator Kassebaum in Washington DC by the Labor and Human Resources Committee and three by Senator Jeffords, two of which were held in Washington, DC and one held in Alexandria, Virginia by the Subcommittee on Education, Arts and Humanities. Testimony was received from 20 witnesses representing both the private and public sectors all of whom represented a variety of perspectives on the issue of continued Federal support for the NEA, NEH and IMS.

The first hearing was held on January 26, 1995, on the subject of reauthorizing the National Endowment for the Arts. The only witness appearing before the full committee was the Chairperson of the National Endowment for the Arts, Jane Alexander.

The second hearing, held on February 23, 1995, also addressed the topic of the reauthorization of the National Endowment for the Arts. Testimony was taken from those advocating the status quo, those advocating significant change and those advocating the merger of the Agencies or complete elimination of the NEA. Witnesses included: Mr. Christopher Reeve, Co-president of the Creative Coalition; Mr. John Ong, Chairman and CEO of the B.F. Goodrich Company; Hon. Joseph P. Riley, Jr., Mayor of Charleston, South Carolina; Mr. Harold Williams, President and Chief Executive Officer of the J. Paul Getty Trust; Mr. Dean Amhaus, Executive Director of the Wisconsin Arts Board; Mr. Richard Gurin, Chief Executive Officer of Binney and Smith; Mr. Leonard Garment, Partner with Mudge Rose Guthrie Alexander & Ferdon; Mr. George White, President and Founder of the Eugene O'Neill Theater; Dr. Laurence Jarvik, Director, Center for the Study of Popular Culture; and Dr. Charles Clotfelter, Professor of Public Policy at Duke University. The hearing record was held open for additional testimony which was submitted by Fondo del Sol Visual Arts Center, Jill Worzer of Montpelier, Vermont and Debbie Myers of Lexington, South Carolina.

On March 2, 1995, a third hearing was held to discuss the reauthorization of the National Endowment for the Humanities. Witnesses included: Chairman of the National Endowment for the Humanities, Sheldon Hackney; Dr. Victor Swenson, Executive Director of the Vermont Council on the Humanities; Mr. David A. Berry, Professor of History, Essex County College and Executive Director of the Community College Humanities Association; Dr. Alberta Arthurs, Director of Arts and Cultural Programs for the Rockefeller Foundation; Dr. Walter Berns,

Resident Scholar, American Enterprise Institute; and Dr. Barry Gross, National Program Officer and Treasurer, National Association of Scholars.

A final hearing was held on March 10, 1995, at the Alexandria Black History Resource Center in Alexandria, Virginia on the topic of the reauthorization of the Institute for Museum Services. Witnesses included: Director of the Institute for Museum Services, Diane Frankel; Ms. Audrey Davis, Director, Alexandria Black History Resource Center; and Ms. Joyce Bucci, Specialist, Office of Art for Baltimore County Public School. The hearing record was held open for additional testimony which was submitted by the Association of Systematics Collections, American Zoo and Aquarium Association, the American Association of Museums, Edmund Barry Gaither and Fondo del Sol Visual Arts Center.

On July 19, 1995, the Labor and Human Resources Committee met to consider an amendment in the nature of a substitute to S. 856 offered by Senator Kassebaum. Following brief opening statements, an amendment was offered by Senator Abraham to privatize the NEA and NEH over a five year period. The amendment called for a reduction in the authorization level of 20 percent each year over five years with no appropriations authorized thereafter and allowed for a percentage of authorized funds to be used for fundraising. The amendment transferred the administration of the Arts and Artifacts Indemnity Program to the Institute of Museum and Library Services. Finally, the amendment included a resolution expressing Sense of the Senate resolution that additional tax incentives for charitable donations should be provided, such as tax deductions for nonitemizers, the elimination of the cap on charitable deductions, and a specific tax credit for donations to the newly constituted national organization. The amendment was defeated by a roll call vote of 6 yeas to 10 nays. The vote on the amendment was as follows:

YEAS	NAYS
Coats	Kassebam
Gorton	Jeffords
Frist	Gregg
DeWine	Kennedy
Ashcroft	Pell
Abraham	Dodd
	Simon
	Harkin
	Mikulski
	Wellstone

The committee then accepted an amendment offered by Senator Dodd by voice vote. The amendment offered by Senator Dodd ordered the Chairpersons of the NEA and the NEH to jointly conduct or contract for a study on the feasibility of establishing a true endowment for the NEA and NEH in order to provide supplemental funding.

Senator Ashcroft for himself and Senator Gregg offered an amendment which would have

reduced the authorization level by 10 percent each year over the 5 year authorization period. The amendment was defeated by a roll call vote of 8 yeas to 8 nays. The vote on the amendment was as follows:

YEAS	NAYS
Kassebaum	Jeffords
Coats	Kennedy
Gregg	Pell
Frist	Dodd
DeWine	Simon
Ashcroft	Harkin
Ashcroft	Mikulski
Gorton	Wellstone

The final amendment was offered by Senator Pell for himself and Senators Kennedy and Dodd. The amendment would have broadened grants to individuals to include fellowships in American folk heritage or traditions, choreography, sculpture, architectural or urban design, jazz or other musical composition, painting, or works on paper. The amendment was defeated by a roll call vote of 7 yeas to 9 nays. The vote on the amendment was as follows:

YEAS	NAYS
Kennedy	Kassebaum
Pell	Jeffords
Dodd	Coats
Simon	Gregg
Harkin	Abraham
Mikulski	Ashcroft
Wellstone	DeWine
	Gorton

The committee then voted for final passage of the amendment in the nature of a substitute to S. 856 by a vote of 12 yeas to 4 nays. The vote was recorded as follows:

YEAS	NAYS
Kassebaum	Coats
Jeffords	Abraham
Gregg	Ashcroft
DeWine	Frist
Gorton	
Kennedy	
Pell	
Dodd	
Simon	
Harkin	

### III. History of Legislation

The National Foundation on the Arts and the Humanities was established in 1965 by Public Law 89-209, the National Foundation on the Arts and the Humanities Act. Although this was landmark legislation, it was not the first attempt to establish an arts foundation. As early as the 1950's, bills were introduced to establish a national arts agency. In 1963, Special Consultant on the Arts to President Kennedy, August Heckscher, submitted his report on "The Arts and the National Government" that recommended an arts foundation. The original Act of 1965 was preceded by the National Arts and Cultural Development Act of 1964 (Public Law 88-579), which established a National Council on the Arts. When the National Foundation on the Arts and the Humanities Act became law in 1965, the National Council on the Arts was transferred to the National Endowment for the Arts. The National Foundation on the Arts and the Humanities currently is composed of the NEA (and its National Council on the Arts), NEH (and its National Council on the Humanities), the Federal Council on the Arts and Humanities (that administers the Arts and Artifacts Indemnity Act), and the IMS (and its National Museum Services Board).

The National Foundation on the Arts and the Humanities Act was subsequently amended in 1967 by Public Law 90-83; in 1968 by Public Law 90-348; in 1970 by Public Law 91-346; in 1973 by Public Law 93-133; in 1976 by Public Law 94-462 and Public Law 94-555; in 1980 by Public Law 96-496; in 1984 by Public Law 98-306; in 1985 by Public Law 99-194; in 1986 by Public Law 99-362; in 1987 by Public Law 100-202; in 1989 by Public Law 101-121; in 1990 by Public Law 101-512; in 1993 by Public Law 103-171; and, in 1994 by Public Law 103-382. Among the public laws just cited, reauthorizations occurred in 1968, 1970, 1973, 1976, 1980, 1985, and 1990.

The Museum Services Act was first enacted as Title II of the Arts, Humanities and Cultural Affairs Act of 1976 (Public Law 94-462). The Act was subsequently amended in 1980 by Public Law 96-496; in 1984 by Public Law 98-306, in 1985 by Public Law 99-194, and in 1990 by Public Law 101-512.

The Arts and Artifacts Indemnity Act, "an Act to provide indemnities for exhibitions of artistic and humanistic endeavors," was enacted in 1975 as Public Law 94-158 and amended by Public Law 99-194 and Public Law 101-512. The Federal Council on the Arts and Humanities was given authority to make indemnity agreements against loss or damage to art objects and artifacts for international art exhibitions.

#### The Arts, Humanities, and Museums Amendments of 1990

The last reauthorization of the National Foundation on the Arts and the Humanities Act of 1965 was enacted as part of the Department of the Interior and Related Agencies Appropriations Act of 1991, (H.R. 5769) Public Law 101-512. On September 12, 1990, this

committee reported S. 2724 (S. Rept. 101-472) with an amendment in the nature of a substitute that would have reauthorized NEA, NEH, and IMS for five years. On October 11, 1990, the House passed H.R. 4825, the Arts, Humanities, and Museums Amendments of 1990. On October 15, 1990, the House passed the appropriations measure (H.R. 5769) with the text of H.R. 4825 attached, providing a three-year reauthorization of NEA, NEH, and IMS. On October 24, the Senate passed the appropriations measure including the text of H.R. 4825. Senator Helms amendment prohibiting funding of material that denigrates religion was passed by voice vote, but was eliminated in conference. Other language was inserted to clarify the definition of "obscenity." On October 27, 1990, both House and Senate agreed to the Conference report on H.R. 5769. On November 5, 1990, H.R. 5769 was signed into law as Public Law 101-512.

Public Law 101-512 extended authority for NEA, NEH,IMS, and the Arts and Artifacts Indemnity Act through fiscal year 1993. Among its major provisions, it increased the State allotment from 20 percent to 27.5 percent of NEA program funds in fiscal year 1993. In addition, an allotment of up to 7.5 percent of programs funds in fiscal year 1993 was targeted to arts access programs in rural and inner-city areas. With regard to controversial grants, the Act defined "determined to be obscene" as meaning deemed "in the final judgment of a court of record" to be obscene. In the event that a project was determined to be obscene by the courts, the Chair required repayment under terms deemed appropriate. In the "Declaration of Purpose," Public Law 101-512 added that the arts must be "sensitive to the nature of public sponsorship." The law contained new language on the panel system, requiring wide geographic, ethnic and minority representation, and the use of lay individuals knowledgeable about the arts, but not associated with an arts profession or arts organizations.

#### Committee Activity in the 103rd Congress

In the 103rd Congress, Senators Pell and Jeffords introduced S. 1218 (July 14, 1993), the Arts Humanities and Museums Amendments of 1993, a two-year extension for the NEA, NEH, and IMS. This committee reported S. 1218 (S. Rept. 103-186) on November 12, 1993 with an amendment in the nature of a substitute. A similar bill (H.R. 2351) was passed by the House on October 14, 1993. A comparability of State arts spending amendment became part of both bills. This amendment withheld increases in a State's allotment of NEA funds if the State decreased its own funding for the arts below the average level of the three most recent years and if the rate of reduction exceeded the rate of all the State's general fund reductions. No further action was taken.

#### **IV. Background and Description**

As during past reauthorization discussions relating to the National Endowment for the Arts, a great deal of consideration was given to fundamental questions relating to the Agency. The committee had to determine the continued existence of the NEA and NEH, the value and importance of Federal support for culture, the Federal financial commitment and finally, how the Agencies could be more responsive to the public. It was the committee's intent to address legitimate questions brought up during oversight hearings and from the community. The



substitute to S. 856 is the result of such discussion, debate and deliberation and it makes changes to current law designed to provide resolution to the myriad of problems confronting the Agencies through a fundamental reevaluation of their structure and their purpose. It was the consensus of the committee that changes were necessary and those that were agreed to were implemented to assure greater accountability to the American people and greater confidence in the knowledge that the Agencies exist to serve them by making arts, humanities, libraries and museums more accessible.

The bill provides for a five year authorization for the National Endowment for the Arts, the National Endowment for the Humanities, the Institute for Museum and Library Services and the Arts and Artifacts Indemnity Act. The committee maintains that there is a role for the Federal Government in supporting our cultural heritage as well as a distinctly national purpose in the existence of these Agencies which cannot be pursued by devolving all funds to the States. The intent of this bill is to strike a balance between Federal leadership and State determination with the goal of ensuring that the very best works in the arts and humanities are available to all persons of the nation. Priority language is included throughout the bill to emphasize access to underserved communities.

Much of the purpose section is maintained from current law, though additional emphasis is placed on the need to respect the public trust when using public monies. The purposes have been clarified to reinforce the concept of partnership between public and private entities and to emphasize the importance of Federal support for the arts and humanities. Further, the purpose section states, "Federal funding for the arts and humanities must be sensitive to the nature of public support and the need to use public funding in a manner that recognizes the responsibility of the Federal Government to the public good" and that such funding "serves the purposes defined by Congress and are subject to the conditions that traditionally govern the use of public money." The committee has tried to communicate the singularly important message that the National Endowment for the Arts, like other departments or agencies of the Federal Government, exists to provide an important service to the American people and must comply with rules and judgements governing public support and make appropriate decisions in providing these services.

The bill includes specific language which prohibits the use of Federal funds for the purposes of lobbying or for providing general membership services for groups. Such use of funds is inappropriate and takes scarce funds away from the purposes outlined in the Act.

The committee directs the NEA and NEH to jointly undertake some administrative functions with the intent of having the Agencies reduce the amount of funds used for administration as well as avoid senseless duplication of activities which clearly could and should be consolidated.

The committee took further action on administrative costs by placing a 12 percent cap on funds available for administration of the NEA and NEH. In determining this level, the committee took into consideration their unique grant making functions as well as the directive that they both

convene advisory panels -- all of which entail considerable costs to the Agencies. Such considerations were balanced with the committee's awareness that a significant percentage of funds were being used for administration. An additional 3 percent of appropriated funds is available to the NEA for workforce reductions for either employee severance pay under section 5595 of title 5 United States Code or employee buy out programs as authorized by law. The committee includes this provision for the NEA as a means of managing costs associated with employee cutbacks due to the both anticipated reductions in overall appropriations and the cap on administrative spending. The committee will consider including this same provision for the NEH during floor consideration. Contributions from each Agency's administrative budget for the President's Committee on the Arts and Humanities are limited and may not exceed \$100,000. This, too, represents an effort to reduce administrative costs and ensure that as much money as possible is available for grant making activity. All actions taken relating to administrative spending are an effort by the committee to reduce bureaucracy and ensure that funds appropriated to the Agencies are used for grantmaking.

The committee also limits the amount of funds to be spent on official reception and representation costs. In fiscal year 1996, not more than \$100,000 from funds donated, bequeathed or devised to the NEA or NEH may be used for official reception and representation and shall not exceed \$50,000 for the remaining fiscal years. The Jefferson Lecture in the Humanities is exempt from this limit.

The substitute to S. 856 reduces the authorization of appropriations level for the NEA and NEH by 5 percent a year representing a 25 percent reduction over the 5 year authorization period. The baseline level for the reduction was \$162,000,000 for the NEA and \$172,000,000 for the NEH, reflecting the agreed upon fiscal year 1995 rescinded levels. The committee recognizes the need for measured cutbacks in discretionary spending in the years ahead and has, therefore, provided for an authorization of appropriations which is realistic yet not punitive. The committee notes that the reductions in the authorization levels for these Endowments in no way represent an effort to begin on a glide path to eliminating these Endowments. Instead, the reductions are in keeping with thoughtful and balanced efforts to reduce the budget deficit by the year 2002.

Significant structural changes made by the committee are attempts to streamline the Agencies and provide a clear outline and direction in which the Endowments should focus and distribute scarce funds. The committee has provided a framework which directs the NEA to move forward in ensuring that the arts and humanities continue to be available to communities through increased support to States for local endeavors, support to nationally significant projects which have broad appeal and reach a wide audience, support to groups and fellowships for literature for smaller scale projects of the highest artistic excellence and artistic merit and finally, support for arts education and outreach to underserved communities. There is little direction to priorities at the NEA in the current law, save for mentions of arts education and underserved communities. From testimony taken during the hearings, there was agreement that it was important to maintain a strong national program and a strong State program. The substitute to S. 856 sets priorities for the Agencies to follow which will force them be more responsive to the public. Changes made to the National Endowment for the Humanities and the Institute of

Museum and Library Services are in keeping with this design to streamline and provide greater direction and focus to the Agencies' missions.

Partnerships grants are a redesignation of the basic State grant which continues to be distributed by a formula maintained from current law. Partnership grants will be made to State arts agencies to establish local arts activities with the emphasis on local involvement and participation. The reservation for Partnership grants is 40 percent of authorized funds, which represents a 12.5 percent increase to the State agencies from current law. The committee's intent in increasing the State share of funds is to sustain and enhance the expansion of the arts in local communities and make certain that States continue to have a voice in the decision making process of serving the local community.

National Significance grants represent 40 percent of authorized funds. Groups eligible to apply include regional groups and groups of demonstrated and substantial national or regional cultural significance. Funds will be available for projects, productions and workshops that have significant merit, encourage professional excellence or increase the access of the people of the United States, especially underserved communities, to the best of arts and culture. The committee's intent in creating this category of grants is to emphasize the importance of providing support for activities of recognized quality. Within this category, matching requirements have been increased from current law which requires a 1:1 or 3:1, private dollar to public dollar match to a 3:1 or a 5:1 ratio. A group must match at a 5:1 ratio if the group's annual budget is over \$3,000,000. The increase in the matching requirement is included in the legislation in response to testimony from the Chairperson of the NEA stating that current matches are actually much higher than obligated by law. This increased matching requirement recognizes what is current practice and will help to encourage greater participation by the private sector in support of cultural projects. Ten percent of funds for this grant category may be matched with a greater Federal share obligation of 50 percent. Those groups eligible for the smaller match are those groups whose projects, productions or workshops have been determined by the Chairperson to be of national significance and because of their small annual budget, are unable to meet the higher matching conditions required in this section. National Significance grants may be made in the following disciplines: dance, design, literature, folk arts, media, museums, music, theater or visual arts. It is the committee's intent that priority shall be given to those projects, productions or workshops that increase the public's access, especially those in underserved communities, to culture and the arts. The goal of this priority language is to further assure that the needs of underserved communities will be fully taken into consideration.

Direct grants represent 10 percent of the authorized funds and are the only category of grants where individuals are eligible to apply. Direct grants are open to groups or to individuals for fellowships in literature. Grants made in this category must be broadly representative of the cultural heritage of the United States and the Chairperson should ensure that grants are awarded to assure geographic representation of works of the highest artistic excellence and artistic merit. Federal share requirements call for a dollar for dollar match from non-federal sources. The Chairperson may make available up to twenty percent of the funds in this category for distribution requiring no match from non-federal sources, only after review by the National

Council. Priority shall be given to projects, productions or workshops that will be widely disseminated after completion. The committee intends for grants within this category to be made available, on a competitive basis -- based on artistic excellence and merit -- to small or medium sized organizations whose projects might not yet have national impact.

Action taken by the committee in limiting fellowships to only those for literature is a result of the continuation of grants made to individuals for work not meeting the high standard of artistic excellence and artistic merit. The committee seeks to provide assurances to the American public that the Agency's support will not go to marginal projects with limited appeal or integrity.

Finally, Arts Education and Underserved Communities grants, representing 10 percent of authorized funds, shall be made to State arts agencies or other local or regional groups for activities in arts education or for broadening public access to the arts in underserved areas. Funds provided in this category must be matched dollar for dollar by non-federal sources. The National Endowment for the Arts has provided critical support in the areas of arts education and service to underserved communities. Since the 1990 authorization the NEA has provided leadership in this area and without this important Federal contribution many schools would be unable to support arts education programs which are of vital significance in enriching the educational opportunities of school aged children in this nation. The committee intends for arts education and outreach to underserved communities to continue to be a central component of the programs supported by the NEA and has therefore included a category specifically dedicated to such activities. Current law provides the authority for arts education programs and the committee, in including an arts education, underserved communities category as part of this year's reauthorization, seeks to restate the value of this program. In addition, while the committee has made clear that a specific percentage of funds be spent on such activities, such outreach initiatives should be a fundamental concern and concentration of the Agency in each of the grant categories.

In this time of budget cutting and efforts to make Federal programs more effective and efficient with fewer Federal dollars, it becomes increasingly important to prioritize. This is particularly important in the area of education where it is essential to direct funding to programs that demonstrate success in improving childhood development and student learning. The committee recognizes the benefits of arts education and specifically the impact of music education in enhancing educational opportunities.

Specifically, the committee is aware of research into the benefits of music education. Studies at the University of California, Irvine, show what music instruction dramatically increases children's spatial-temporal IQs. Spatial-temporal ability is required in mathematics, physics, engineering, architecture and any subject or task requiring an understanding of how objects fit together in time and space. Music instruction can strengthen every child's ability to reach his or her full potential in math and science, as well as develop enhanced social development and cultural awareness.

In light of this research, music education should be considered a priority for all students.

Every effort should be made to target funding to school-based sequential music programs taught by qualified teachers. Such programs are critical for children at risk who have no access to music instruction opportunities outside the school setting.

The committee has included language which prohibits seasonal support and subgranting, eliminating the possibility of groups receiving funding for projects, productions or workshops which have not been approved in the review process specified in statute. Both subgranting and seasonal support are practices which have resulted in projects receiving funds that have not been specifically approved by the Chairperson or the Council. Their elimination are an effort to alleviate the possibility of further instances of what represents, in many cases, a misuse of Federal funds. The committee strongly believes such instances undermine overall confidence in the general good works of the Agency. Eliminating subgranting and seasonal support places the control and responsibility of funding decisions with the NEA and ensures that it will be directly accountable for the grants that are made.

The grant making process is three tiered, yet it has often been criticized for relying almost exclusively on the recommendations of the advisory panels. In order to address this criticism, the committee has redesigned the process in order to distinguish the separate roles of the advisory panels, the National Council and the Chairperson. In including changes, the committee seeks to shift greater responsibility to the National Council on the Arts whose membership is appointed by the President with the advice and consent of the Senate, and is accountable to the American public, and also increase the decision making responsibility of the Chairperson.

Therefore, advisory panels, under the substitute to S. 856, have reduced authority in which they are able to recommend only general ranges of financial assistance. This represents a change from the current practice of advisory panels recommending specific grant amounts. In addition, under the substitute, advisory panels must recommend more applicants for grants than funding available. Service on advisory panels has been limited to five non consecutive years. The number of laypersons per advisory panel has been increased to two. Panelists, who are employees of an organization with a pending application or who have direct or indirect financial interest in a pending application must excuse themselves from panel discussion until a final decision by the Chairperson on a grant has been made. These changes represent an effort on the part of the committee to increase the fluidity and turnover on the panels, move away from charges of conflict of interest as well as encourage greater input from lay individuals who represent local communities throughout the country.

The reduction in the membership of the National Council of the Arts will further reduce the bureaucracy at the Agency. In addition, the smaller membership will allow for more rigorous and meaningful discussion and decision making on its part. National Council members may make a recommendation for the specific amount of funding for a grant award but shall recommend more grant applicants for grants than funding available. Members will not be eligible for re-appointment unless they have served less than three years on a previous term. Again, such limits on service are intended to increase the breadth of representation on the National Council and increase the decision making responsibility. More clearly delineating the role of the Council will

provide further safeguards against charges of "rubber stamping" recommendations of the advisory panels.

The bill maintains the strict provisions relating to sanction and repayment for direct or indirect recipients of funding who have failed to satisfy the purposes for which a grant was made. The committee would encourage the Agency to continue in its effort to provide sufficient follow up in this area and fully enforce this provision of the legislation.

Additional limits are in place to reinforce the notion that a grant from the NEA should not be a guaranteed supplemental income for either an individual or a group. Individuals are limited to 2 grants and groups are limited to 3 grants in a year, exempting only States and regional groups. Agreements for administrative costs -- cooperative agreements -- are exempt. In implementing this provision, the committee intends to encourage the Agency to reward groups and individuals for artistically excellent and artistically meritorious projects.

The substitute to S. 856 includes a provision whereby funds may be "recaptured" from financially successful grants at both the National Endowment for the Arts and the National Endowment for the Humanities. The committee recognizes the enormous contribution that the Agencies make in nurturing and supporting projects that often become commercial successes and believes that such contributions, when successful, should be recredited to the Agencies.

In incorporating a similar structure and parallel approach for the National Endowment for the Humanities, the committee seeks to improve the Agency and make it more responsive to the public. The committee, in establishing the three grant categories, intends to set funding priorities for the Agency so that it may provide support for those projects which benefit the public and advance and preserve the humanities. The committee looked to testimony presented before the Education, Arts and Humanities subcommittee in making determinations as to the Agency priorities.

Partnership Grants, representing 30 percent of appropriated funds, will be made to State humanities councils to support, promote and foster humanities studies and programs that serve the local community. The 30 percent reservation for State block grants represents an increase from current law. Teacher training services in the humanities for elementary and secondary education are shifted to the State level from the national level. In making this change, the committee recognizes the benefit in having the local community determine the best method for teacher training in the humanities and expects results of increased participation in these valuable programs. Funds to State humanities councils will be distributed by a formula which has been maintained from current law. All funds in this grant category must be matched on a dollar for dollar basis. The committee believes that the increased percentage to States creates a good balance between national activities and State activities. The committee, therefore intends that the balance between the State and the national program should be maintained both in discussion on the Senate floor and in during conference.

National Significance grants represent 35 percent of appropriated funds and shall be used

to support programs which increase public participation in the humanities and education in the humanities. It is the intent of the committee that programs funded through national significance grants have a national audience and be of national significance. Both groups and individuals are eligible for these grants and the total of all funds awarded in this category must be matched dollar for dollar. Grant awards for endowment building or capital projects require a higher match of three non-federal dollars to every Federal dollar awarded. It is the intent of the committee that National Significance grants include projects in museums and historical organizations, endowment building, projects in libraries and archives, public humanities projects, technology activities and teacher training in the humanities. Eligibility has been opened to State humanities councils, allowing them to compete for grants in this category in recognition of the extraordinary success many of them have had in developing innovative humanities programs. Generally, the creation of this grant category recognizes and reinforces the important impact that the NEH has on strengthening knowledge about our American culture. The benefits of such projects cross State lines and make a vital difference in the lives of all people in this nation and therefore should be prioritized and pursued at the national level.

Research and Scholarship Grants, representing 35 percent of appropriated funds, shall be made to groups or individuals to encourage the development and dissemination of significant scholarship in the humanities. In recognition of the important contribution of the NEH in encouraging study and scholarship in the humanities, the committee has made projects in the area of research and scholarship a priority for the Agency. Research and Scholarship grants are intended to support activities which may include fellowships for college and university faculty and independent scholars, dissertation grants, summer stipends, scholarly publications, reference materials, basic research, institutional programs, and finally, grants for preservation. The total costs of all activities funded in this category must be matched on a dollar for dollar basis, non-federal to Federal funds. As with National Significance grants, State humanities councils will be eligible to compete for grants in the Research and Scholarship category, in recognition of the important contributions of State humanities councils. Again, as many of the endeavors of the NEH fundamentally benefit our nation and our national history, the committee believes that research and scholarship activities should be maintained at the national level. Preservation projects and research and scholarship projects extend beyond the boundaries of one State and can only be sufficiently supported by a strong national program. This strong national commitment is a focus of the substitute to S. 856 and the committee maintains that the NEH should continue to have the capacity to make contributions in supporting and preserving the works of scholars, and historians as well as stimulating new scholarship in the humanities.

The same determinations made with reference to the National Council on the Arts, apply to the decisions made by the committee to reduce the National Council on the Humanities. The smaller membership both reduces the bureaucracy at the Agency and allows for more meaningful discussion and decision making on its part. Members will not be eligible for re-appointment unless they have served less than three years on a previous term. Again, such limits on service are intended to increase the breadth of representation on the National Council and increase the decision making responsibility.

The bill maintains the strict provisions relating to sanction and repayment for direct or indirect recipients of funding who have failed to satisfy the purposes for which a grant was made. The committee would encourage the Agency to continue in its effort to provide sufficient follow up in this area and fully enforce this provision of the legislation.

The substitute to S. 856 calls for a merger of the Institute for Museum Service and the Library Services and Construction Act. Provisions relating to the Institute for Museum Services have been maintained from current law while many of the provisions relating to the Library Services and Construction Act have been changed to reflect the prevailing needs and concerns of the American public as they relate to library services. The concentration of the latter has been shifted to access and technology. The committee, in merging these program, has noted the benefit to be gained by the American public through this close association. The programs, too, will be strengthened from collaboration and partnership in the critical areas of technology and access. The committee believes that support for museums and libraries is vital as they are institutions which have proven effective in enhancing educational opportunities for all. By uniting the forces of libraries and museums in local communities, the committee believes that learning opportunities will be enhanced for individuals in those communities.

The Director of the Institute for Museum and Library Services shall be appointed by the President, with the advice and consent of the Senate for a term of 4 years. The Director will oversee the Office of Museum Services and the Office of Library Services. The expertise of the Director shall rotate each term between an individual who has special competence with regard to library and information services and an individual who has competence with regard to museum service in order to ensure a balance in administering these programs. The museum services program remains as it is now, with a Museum Board advising the director on museum policy, while the library program will be advised by the National Commission on Library and Information Sciences.

The library program under the substitute to S. 856, referred to as the Library Services and Technology Act, represents a marked departure from the current administration and focus of the program. The Library Services and Technology Act consolidates, streamlines and simplifies administration of the current library program with the intent of providing services more efficiently. The focus and priorities of the Act have been changed to library and information access through technology and access to libraries and information through the provision of special services. In addition, the committee mandates a national leadership program designed to enhance the quality of library services nationwide. Funds have been specifically reserved to provide assistance for children in poverty, Indian tribes and for the national leadership program in library science. Administration of the Federal program has been capped at 10 percent of authorized funds and administration at the State level has been capped at 5 percent of authorized funds. Such provisions have been incorporated to ensure that the bulk of the money is available to State library administrative agencies to serve the local community's needs.

The committee, in highlighting the importance of information access through technology, has sought to afford States the ability to improve library and information service by providing



access to information delivered by libraries. The committee intends for funds to be used to support the development and improvement of the technology infrastructures of libraries. In addition, the committee has sought to assist States in improving library and information services for those of all ages and cultures who have difficulty getting to a library, need special materials or services, or would benefit from outreach service. In providing funds to State library administrative agencies, the committee intends for them to focus on initiatives such as increasing literacy and lifelong learning, providing services and materials to special populations, and providing services and outreach to people in rural or urban areas. The bill provides for a reservation of funds to be distributed to the State agency for children in poverty, based on a formula of \$1.50 for each preschool aged child and \$1.00 for every school aged child. Priorities for the use of such funds include the development of after school homework support and summer and vacation reading programs, family literacy programs, extension of branch hours to provide resources for homework, peer tutoring programs, training programs involving library and other service providers and the hiring of outreach staff. The committee recognizes the importance and value of enhancing library services in the area of technology as the nation moves into the 21st century and has, therefore, shifted the focus of our national library program from construction to information technology. In addition, the committee agrees that the provision of special services and outreach to underserved communities benefits the nation by increasing the educational opportunities available to those who might not otherwise receive it.

It is the committee's intent that the National Commission on Library and Information Sciences serve as an advisory board to the Director of the Institute for Museum and Library Services with respect to general policies. The Director of the Institute of Museum and Library Services has been included as an ex officio, non voting, member of the Commission. The committee does not intend for the Commission to have the responsibility to advise or direct State administrative agencies on matters of State or local administration of funds awarded under this Act.

The committee has not made significant changes to the Arts and Artifacts Indemnity program. Since its creation, the Arts and Artifacts Indemnity Act, at little cost to the Federal Government, has provided the insurance needed to bring acclaimed international exhibitions to communities throughout the United States. It has permitted millions of Americans to benefit from touring exhibitions which might otherwise be unavailable to them. With the extension of indemnification to United States exhibitions touring throughout our nation, this program will make American exhibitions even more widely available.

The committee eliminates the Federal Council on the Arts and Humanities since all its functions are exercised by other agencies. One function that it has performed well in current times has been the decision making role for the Arts and Artifacts Indemnity Act program. Thus, in passing that final decision making role to the Chairperson of the NEA, the committee encourages the Chairperson to seek the advice of the other agencies represented currently on the Federal Council in the review process for the program.

The Committee expects it review the program's operations and revisit the question of the

program's home base during oversight hearings or in the next reauthorization.

V. Cost estimate (CBO)  
(See attached)

VI. Regulatory Impact Statement

The committee has determined that there will be only a negligible increase in the regulatory burden of paperwork as a result of this legislation.