

November 2016

## Reauthorization: S. 2724 (1990): Report 15

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**DRAFT**

AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: To establish standards for determining whether a group or individual who received funds pursuant to the provisions of section 5 of the National Foundation on the Arts and the Humanities Act of 1965 used such funds to create, produce, or support a project which is obscene or racist, or which denigrates a particular religion; to establish sanctions for groups or individuals which create, produce, or support a project or production which is found to be obscene under criminal laws; 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

AMENDMENT intended to be proposed by Mr. HATCH

Viz:

- 1 On page \_\_\_\_\_, strike all beginning with line \_\_\_\_\_
- 2 through page \_\_\_\_\_, line \_\_\_\_\_, and insert the following:
- 3 “(i)(1) The Chairperson of the National Endowment
- 4 for the Arts (hereafter in this subsection referred to as the
- 5 ‘Chairperson’) shall establish and publish standards for de-
- 6 termining whether a group or individual who received

1 funds pursuant to the provisions of section 5 used such  
2 funds to create, produce, or support a project which is ob-  
3 scene or racist, or which denigrates a particular religion.

4 “(2) The Chairperson shall establish sanctions for  
5 violation of the standards established pursuant to para-  
6 graph (1).

7 “(3) Except as provided in paragraphs (4) and (5),  
8 where funds received pursuant to the provisions of section  
9 5 are used to create, produce, or support a project or pro-  
10 duction which is found to be obscene under criminal laws,  
11 as determined by a court decision after final appeals in the  
12 State or States in which the group or individual produced  
13 such project or production or in the State or States de-  
14 scribed in the grant award as the site or sites of the project  
15 or production, the sanctions described in paragraph (2)  
16 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 paragraph  
20 (3) to the Chairperson of the portion of the funds re-  
21 ceived under section 5 which were used to create or  
22 produce such project or production in accordance  
23 with the provisions of paragraph (4); and

24 “(B) ineligibility of the individual or organiza-  
25 tion which—

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

5           “(ii) was a defendant convicted in the  
6           criminal action described in paragraph (3);  
7           to receive funds under this Act for a period to be deter-  
8           mined by the Chairperson of the National Endowment for  
9           the Arts, which shall not be less than 3 years from the date  
10          such project or production is found to be obscene or until  
11          repayment of the funds pursuant to the provisions of sub-  
12          paragraph (A), whichever is longer.

13          “(4)(A) Except as provided in paragraph (5), funds  
14          required to be repaid pursuant to the provisions of this sub-  
15          section shall be repaid within 90 days from the date such  
16          project or production is found to be obscene pursuant to  
17          the provision of paragraph (3).

18          “(B) If a State, local or regional agency or arts group  
19          received funds directly from the Chairperson under section  
20          5 and awarded all or a portion of such funds to an individ-  
21          ual or organization which used such funds to create,  
22          produce or support a project or production found to be ob-  
23          scene pursuant to the provisions of paragraph (3), and the  
24          Chairperson determines that such individual or organiza-  
25          tion is not able to repay such funds in accordance with the

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1 provisions of paragraph (3) and this paragraph, then such  
2 agency or group shall repay such funds to the Chairperson  
3 within 30 days of the expiration of—

4           “(i) the 90-day period described in paragraph  
5           (4); or

6           “(ii) the waiver period described in paragraph  
7           (5).

8           “(C) Each individual or organization required to  
9 repay funds pursuant to the provisions of subparagraph (A)  
10 of paragraph (3) shall be ineligible to receive funds under  
11 this Act until such funds are repaid.

12           “(D) If a State, local, or regional agency or arts group  
13 is required to repay funds pursuant to the provisions of  
14 subparagraph (A) of paragraph (3) or subparagraph (B) of  
15 this paragraph and fails to make such repayment in accord-  
16 ance with the provisions of this subsection, then such  
17 agency or group shall be ineligible to receive funds under  
18 this Act until such funds are repaid.

19           “(5) The Chairperson may waive the provisions of  
20 paragraph (4)(A) for a period not to exceed 2 years.

21           “(6) The Chairperson shall develop procedures to  
22 ensure compliance with the sanctions described in para-  
23 graph (3).

1           “(7) The general information and guidance form pro-  
2 vided to recipients of funds under section 5 shall include  
3 on such form the following:

4           “REPAYMENT OF FUNDS AND DEBARMENT.—In  
5 accordance with a congressional directive, recipients  
6 of funds under section 5 of the National Foundation  
7 of the Arts and the Humanities Act of 1965 are re-  
8 quested to note the sanctions described in section  
9 10(g) of such Act regarding repayment of funds and  
10 debarment.

11           “(8) The Chairperson shall develop regulations to im-  
12 plement the sanction described in this subsection.”.

1 At the appropriate place in the bill insert the follow-  
2 ing:

3 SEC. \_\_. AMERICAN ARTS CELEBRATION.

4 (a) STATEMENT OF PURPOSE.—It is the purpose of this  
5 section to provide for a series of regional celebrations  
6 through which Americans will see the wonderful interac-  
7 tion of art and democracy, and will participate in an un-  
8 precedented national celebration of American arts and cul-  
9 ture.

1 (b) AMERICAN ARTS CELEBRATION.—(1) In fiscal year  
2 1991 and each fiscal year thereafter, the National Endow-  
3 ment for the Arts shall sponsor for the American public a  
4 series of regional celebrations of traditional and contempo-  
5 rary American art.

6 (2) The celebrations described in paragraph (1) shall  
7 be multi-cultural, and shall pay tribute to the diversity and  
8 creativity of the American artistic genius in all its past and  
9 present forms. Each such celebration shall feature the  
10 widest spectrum of artists and artwork available in that  
11 region, including indigenous traditions as well as expres-  
12 sions from diverse ethnic cultures.

13 (3) The National Endowment for the Arts shall work  
14 in concert with appropriate entities in each region of the  
15 United States to plan and implement such regional Ameri-  
16 can arts celebrations.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There are  
18 authorized to be appropriated for fiscal year 1991 and each  
19 fiscal year thereafter \$10,000,000 to carry out the provi-  
20 sions of this section.

insert  
section A  
(attached)

insert  
section B  
(attached)

Section A

The series will juxtapose diverse artforms, thereby illustrating Americans' plural heritages and the bountiful results of democracy at work in the arts. The celebrations will enable Americans to understand the importance of art in documenting history, encouraging creativity and building vibrant communities.

Section B

The types of programs included in the celebrations will include, but not be limited to, presentations in the performing arts, visual arts, media arts, literary arts and crafts. The celebrations will showcase traditional artforms, representational art and contemporary works. Each celebration will incorporate educational programs to inform audiences about the arts and artists involved, and each will encourage community participation in the planning and implementation of events.

The celebrations will be designed to attract a broad spectrum of the American people. They will take place in accessible locations; admission charges will be low or free. Americans from diverse ethnic and cultural backgrounds will be included as participants. This will include people of European and African descent as well as recent immigrants from Asia, Latin America and other parts of the world.