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January 2017

## Arts and Humanities: Senate Report (1976): Report 03

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**ES NITE MONO-1**  
**ES NITE MONO-2**

**Calendar No.**

94TH CONGRESS } SENATE } REPORT  
2d Session } } No. 94

ARTS, HUMANITIES, AND CULTURAL AFFAIRS  
ACT OF 1976

(?) MAY, 1976.—Ordered to be printed

Mr. PELL, from the Committee on Labor and Public Welfare,  
submitted the following

**REPORT**

[To accompany S. ] (?)

(?) The Committee on Labor and Public Welfare, to which was referred the bill (S. ) to amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to provide for a cultural challenge program, an arts education program and an American Bicentennial Photographic and Film Project, and for other purposes, having considered the same, reports favorably thereon with an amendment ( ) and recommends that the bill (as amended) do pass. (?)

**ES NITE MONO—3**  
**ES NITE MONO—4**  
**NEW ODD PAGE**

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

The first section of the bill provides that the bill may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1976".

TITLE I—ARTS AND HUMANITIES

SCOPE OF PROGRAMS CARRIED OUT BY THE NATIONAL ENDOWMENT FOR THE ARTS

Section 101 amends section 5(c) of the Act to eliminate the restriction that projects and productions supported by the National Endowment for the Arts must be located within the United States.

ALLOTMENTS FOR PROJECTS AND PRODUCTIONS RELATING TO THE ARTS

Section 102 amends section 5(g)(4)(A) of the Act to provide that the amount of each allotment to a State for any fiscal year shall be available to each State which has a plan approved by the Chairman of the National Endowment for the Arts to pay not more than 50 percent of the total cost of any project or production described in section 5(g)(1) of the Act.

APPOINTMENT OF MEMBERS OF NATIONAL COUNCIL ON ARTS AND NATIONAL COUNCIL ON HUMANITIES

Section 103(a) amends section 6(b) of the Act to provide that the appointment of members to the National Council on the Arts made by the President shall be made by and with the advice and consent of the Senate. Section 103(b) makes an identical amendment to section 8(b) of the Act regarding the appointment of members to the National Council on the Humanities.

STATE HUMANITIES COUNCILS

Section 104(a) amends section 7 of the ~~National Foundation on the Arts and Humanities Act of 1965~~ (hereinafter in this explanation referred to as the "Act") by adding a new subsection (f).

Subsection (f)(1) authorizes the Chairman of the National Endowment for the Humanities (hereinafter in this explanation referred to as the "Chairman"), with the advice of the National Council on the Humanities, to establish grant-in-aid programs in the several States in order to support not more than 50 percent of the cost of existing activities meeting the standards established by section 7(c) of the Act. Such grant-in-aid programs also may assist in the development of programs in the humanities in a manner which furnishes adequate humanities programs in each of the several States.

*National Foundation  
on the Arts  
and the  
Humanities  
Act of 1965  
(hereinafter  
in this  
explanation  
referred to  
as the "Act")*

*Act,*

## ES NITE MONO—5

## ES NITE MONO—6

Subsection (f)(2) provides that in order to receive assistance under this subsection in a given fiscal year, a State must submit an application for such assistance at a time specified by the Chairman. It further provides that such application shall be accompanied by an annual plan which the Chairman finds (A) designates an existing State agency having responsibility for the arts and the humanities to be the sole agency for administering the State plan; or (B) designates a State committee on the humanities or other appropriate entity as the sole agency for administering the State plan. The subsection prescribes that the plan, if applicable to a committee, shall have the following criteria: that, prior to its submission to the Endowment, it be submitted to the Governor of the State for approval; that it establish procedures for the appointment by the Governor of a majority of committee members within a three year period after the date of enactment of this Act; that the membership policy of the committee be designed so as to be broadly representative; that a nomination process be included to assure committee nominations from a variety of segments of the State; that appropriate rotation of committee members and their officers be provided; and that adequate reporting procedures be provided and procedures for public access of information be established.

It also prescribes that funds paid to the State will be expended solely on programs which carry out one or more of the objectives of Section 7(c), and that the State agency make such reports as the Chairman may require.

Subsection (f)(3) provides that each State which has a plan approved by the Chairman shall be allotted at least \$200,000 out of sums available to carry out subsection (f) in any fiscal year. An equal allocation among grant recipients must be made in any case in which insufficient sums are appropriated.

In any case in which sums available to carry out subsection (f) exceed the amount necessary to make allotments of \$200,000 to grant recipients (A) the amount of the excess which does not exceed 25 percent of the sums available to carry out subsection (f) for the fiscal year involved are made available to the Chairman for making grants under subsection (f) to states and regional groups; and (B) any remaining amount must be allotted among grant recipients which have plans approved by the Chairman in equal amounts, except that no grant recipient may receive less than \$200,000.

Subsection (f)(4) provides that any part of an allotment made under subsection (f)(3) for any fiscal year which exceeds \$125,000, but which does not exceed 20 percent of the allotment, is available (at the discretion of the Chairman) to pay up to 100 percent of the cost of programs under subsection (f). This provision applies, however, only if the programs involved otherwise would not be available to residents of the State involved.

Subsection (f)(4) further provides that any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year, which is not obligated by the State sixty days before the end of that fiscal year for which the sums to carry out this program are appropriated, shall be available to the Chairman for grants to regional groups, which are defined as any multi-State group, whether or not representative of contiguous States.

Subsection (f)(4) also provides that funds made available under subsection (f) may not be used to supplant non-Federal funds.

Subsection (f)(5) provides that any amounts available under subsection (f)(3) for a fiscal year which are not granted to the State agency or committee during the fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out section 7(c) of the Act.

Subsection (f)(6) provides that whenever the Chairman, after reasonable notice and opportunity for hearing, finds that—

- (1) a State agency or committee is not complying substantially with the provisions of subsection (f);

**ES NITE MONO-7**  
**ES NITE MONO-8**

(2) a State agency or committee is not complying substantially with the terms and conditions of its plan; or

(3) any funds granted to a State agency or State committee, under subsection (f) have been diverted from the purposes for which such funds were allotted or paid;

104 the Chairman must notify the Secretary of the Treasury and the grant recipient involved that no further grants will be made under subsection (f) to the grant recipient until there is no longer a default or failure to comply or until the diversion of funds has been corrected. If it is impossible to achieve such compliance or correction, the Chairman is required to bar any further grants until the grant recipient repays or arranges for the repayment of any Federal funds which have been improperly diverted or expended.

Section ~~101~~(b) provides that the amendment made by section ~~101~~(a) is effective with respect to fiscal year 1977 and succeeding fiscal years. 104

**PAYMENT OF PERFORMERS AND SUPPORTING PERSONNEL**

Section 105 amends section 7 of the Act, as amended by section 104(a) of the bill, by adding a new subsection (g). Subsection (g) provides that a group, individual, State, or State agency may not receive grants under section 7 unless such group, individual, State, or State agency provides assurances to the Secretary of Labor that (1) performers and professional personnel employed on the projects or productions involved will be paid not less than the prevailing minimum compensation as determined by such Secretary; and (2) working conditions will be sanitary and will not be hazardous or dangerous to the health and safety of the employees.

Compliance with the safety and sanitary laws of the State involved is considered prima facie evidence of compliance with subsection (g). The Secretary of Labor is given authority to prescribe such standards, regulations, and procedures as he deems necessary or appropriate to carry out subsection (g). The Secretary of Labor is given authority to prescribe such standards, regulations, and procedures as he deems necessary or appropriate to carry out subsection (g).

**ADMINISTRATIVE PROVISIONS WITH RESPECT TO SURPLUS PROPERTY**

Section 106 amends the Act by providing that the Endowments may receive or dispose of by grant or loan excess surplus Federal personal property and makes necessary conforming changes.

**AUTHORIZATION OF APPROPRIATIONS**

Section 107(a) amends section 11(a)(1)(A) of the Act to authorize the following amounts in order to carry out section 5 of the Act: \$92,500,000 for fiscal year 1977; \$105,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal years 1979 and 1980. Not less than 20 percent of any such sums which are appropriated in any fiscal year shall be available for carrying out section 5(g) of the Act.

Subsection (a) also amends section 11(a)(1)(B) of the Act to authorize the following amounts to carry out section 7(c) of the Act: \$82,500,000 for fiscal year 1977; \$95,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal years 1979 and 1980. Not less than 20 percent of such sums which are appropriated in any fiscal year must be available for carrying out section 7(f) of the Act. > do amended.

Subsection (a) also amends section 11(a)(2) to establish the following limitations on appropriations which may be made based on section 10(a)(2) of the Act: \$15,000,000 for fiscal year 1977; \$20,000,000 for fiscal year 1978; and such sums as may be necessary for fiscal years 1979 and 1980.

Section 106(b) provides that the amendments made by section 106(a) shall be effective with respect to fiscal year 1977 and succeeding fiscal years.

201

## ES NITE MONO—9

### TITLE II—MUSEUM SERVICES PROGRAM

Section ~~101~~ provides a short title, so that this title may be cited as the "Museum Services Act."

Section 202 sets forth the purpose of the title: to assist museums in their educational role, to assist them in modernizing their methods and facilities and to ease their financial burdens as a result of increasing use by the public.

Section 203 establishes, within the National Foundation on the Arts and the Humanities, an Institute for the Improvement of Museum Services, and provides for a National Museum Services Board and a Director of the Institute.

Section 204(a) provides for a National Museum Services Board of 15 members: five members including and designated by the Chairman of the National Council on the Arts; five members including and designated by the National Council on the Humanities; and five members, who are not members of either Council, appointed by the President with the advice and consent of the Senate. This section further provides that the members of the Board shall be broadly representative.

Section 204(b) provides for rotation of the Board and prescribes that no appointed member shall be eligible for reappointment for more than seven consecutive years during the three year period following such service.

Section 204(c) prescribes that the Chairman of the Board shall be designated by the President from among the members who are not members of the National Council on the Arts or the National Council on the Humanities, and that eight members shall constitute a quorum.

Section 204(d) ~~provides~~ (1) for meetings of the Board no less than four times each year, (2) for meetings whenever requested by one-third of the members, (3) and that whenever such a meeting is requested one third of the members shall constitute a quorum.

Section 204(e) provides for compensation of the Board who are not in the regular full-time employ of the United States at a rate not to exceed the rate applicable to a GS-18, and provides for travel expenses and per diem compensation for Board members.

Section 204(f) provides the Board with responsibility for the general policies of the Institute.

Section 204(g) requires the Board to coordinate the policies and purposes of the Institute with other activities of the Federal Government.

Section 205(a) prescribes that the Director of the Institute shall be appointed by the President by and with the advice and consent of the Senate. It provides that the Director shall be compensated at the rate provided for level V, U.S. Code, and that the Director shall perform such duties and exercise such powers as the Board may prescribe.

Section 205(b) requires the Director to advise the Board regarding policies of the Institute, in order to assure coordination with other agencies and organizations of the Federal Government concerned with the improvement of museums.

Section 206(a) authorizes the Director, subject to the management of the Board, to make grants to museums to construct or install displays and exhibitions, to assist museums in the development and maintenance of professionally-trained and experienced staff, to assist museums in meeting their administrative costs with respect to their collections and services to the public, to assist museums in cooperative endeavors with each other, to assist museums in conservation activities, and to assist museums with regard to services to such areas as urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions.

Section 206(b) requires that grants made by the Institute not exceed fifty per centum of the cost of the program involved.

Section 207 authorizes the Institute to accept gifts, grants or bequests in the name of the United States and requires the Treasurer of the United States to keep account of such transactions.

*provides*

# ES NITE MONO-10

Section 208(a) authorizes appropriations for grants made by the Institute as follows: \$15,000,000 for the fiscal year 1977; \$25,000,000 for the fiscal year 1978; and such sums as may be necessary for the ensuing two fiscal years.

Section 208(b) prescribes that sums appropriated under subsection 208(a) shall remain available until expended.

Section 208(c) authorizes the appropriation to the Institute, during the period beginning with the enactment of this Act and ending October 1, 1980, of an amount equal to the amount contributed to the Institute under Section 207.

Section 209 provides a definition for the term "museum" as including in meaning a public or private non-profit agency or institution organized on a permanent basis for educational or esthetic purposes, which utilizes a professional staff and conducts the exhibition of the tangible objects in its collection on a regular basis for the public.

Section 210 amends Section 4(a) of the National Foundation on the Arts and the Humanities Act of 1965, in order to include the Institute for the Improvement of Museum Services within the National Foundation on the Arts and the Humanities.

## TITLE III—CHALLENGE GRANT PROGRAM

### ESTABLISHMENT OF PROGRAM

Section 301(a) permits the Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, to establish a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations.

The contracts and grants-in-aid shall be for the purpose of (1) enabling cultural organizations to increase levels of support and increase the range of contributors; (2) providing administrative and management improvements for cultural organizations; (3) enabling cultural organizations to increase audience participation in, and appreciation of, programs sponsored by such organizations; (4) stimulating greater cooperation among cultural organizations; and (5) fostering greater citizen involvement in planning the cultural development of a community.

Section 301(b) limits the total amount of any payment under this title to 50 percent of the cost of the program involved.

Section 301(c) provides that the Chairman of the National Endowment for the Arts shall, in carrying out the program, have the same authority as is established in section 10 of the Act.

Section 301(d) makes the labor standards and practices contained in the basic authorization of the Arts Endowment and contained in Section (i) and (j) of the National Foundation on the Arts and the Humanities Act of 1965 applicable to the programs to be carried out by this title.

### AUTHORIZATION OF APPROPRIATIONS

Section 302 authorizes to be appropriated for each fiscal year ending before October 1, ~~1981~~, an amount equal to the amounts received by the National Endowment for the Arts for the purposes set forth in section 301(a). The amendment, however, establishes the following ceilings for such authorization: \$15,000,000 for fiscal year 1977, and \$20,000,000 for fiscal year 1978. Such sums as may be necessary are authorized for fiscal years 1979 and 1980. The amendment also provides that sums appropriated for any fiscal year shall remain available for obligation and expenditure until expended.

~~1980~~  
1981 (stat)

# ES NITE MONO—11

## TITLE IV—ARTS EDUCATION PROGRAM

Section 401 sets forth the purpose of this title: to improve the quality and availability of arts education for all students by providing financial assistance for inservice training and retraining programs, demonstration projects of an exemplary nature, and the development and dissemination of appropriate information and materials on arts education.

Section 402(a) authorizes to be appropriated to carry out the provisions of this title \$10 million for fiscal year 1977, \$10 million for fiscal year 1978, and such sums as may be necessary for the ensuing two fiscal years.

Section 402(b) provides that sums appropriated pursuant to subsection (a) for any fiscal year shall remain available until expended.

Section 403(a) authorizes the Chairman of the National Endowment for the Arts, with the advice of the National Council on the Arts, to make grants to or contracts with State and local educational agencies, State arts agencies, institutes of higher education and other appropriate public or non-profit organizations to develop inservice training and retraining programs for art teachers and others involved in arts education, to conduct workshops, seminars and related activities both to develop and demonstrate outstanding arts education programs, and to collect, analyze, develop and disseminate information and materials on arts education programs.

Section 403(b) provides that the Chairman shall give appropriate preference to proposals specifying that artists and community arts resources will be utilized.

Section 403(c) provides for adequate consultation and participation, whenever practicable, with State or local educational agencies.

Section 403(d) gives the Chairman the same authority as contained in section 10 of the Act to carry out the programs under this title.

Section 404(a) provides that the Chairman of the Arts Endowment shall consult with the Commissioner of Education and with the John F. Kennedy Center for the Performing Arts through the Alliance for Arts Education in order to insure improved coordination in the arts education program assisted by this title.

Section 404(b) authorizes the Chairman to enter into cooperative programs with the National Endowment for the Humanities, the John F. Kennedy Center for the Performing Arts and the Office of Education.

## TITLE V

### PART A—BICENTENNIAL CHALLENGE GRANTS

Section 501(a) authorizes the Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, to establish and carry out a program, including contracts and grants-in-aid, in accord with the purposes of this Part.

Section 501(b) prescribes that the total amount of payment for a program or project under this Part may not exceed fifty per centum of its cost, except as provided by Section 504.

Section 501(c) provides the Chairman with the authority contained in Section 10 of P.L. 89-209, and requires the Chairman to coordinate the activities of this Part with the other activities of the National Endowment for the Humanities.

Section 502(a) sets forth the findings of the Congress with respect to this Part, emphasizing that the continued vitality of our democracy depends on a renewed commitment to the principles embodied in the Constitution, that the period between the 200th anniversary of the Declaration of Independence and the like anniversary of the ratification of the Constitution is an appropriate time to determine our future goals in relation to our founding principles, and that there should be a new focus on new processes for solving our future problems.



## ES NITE MONO—12

Section 502(b) establishes as the purpose of this Part a Bicentennial Challenge Grant program giving emphasis to the strengthening of citizen participation in the democratic process, the development of new and innovative insights, and new approaches to encourage citizen involvement in decision-making.

Section 503(a) provides for the authorization of appropriations for this Part as follows: \$15,000,000 for fiscal year 1977; \$20,000,000 for fiscal year 1978; and such sums as may be necessary for the ensuing two fiscal years.

Section 503(b) prescribes that these sums shall remain available until expended.

Section 504 authorizes the Chairman, with the advice of the National Council on the Humanities, to waive matching requirements under certain circumstances for meritorious projects.

Section 505 provides appropriate definitions for this Part.

Section 506 makes the fair labor standards prescribed in Section 105 of this Act applicable to this Part.

### PART B—AMERICAN BICENTENNIAL PHOTOGRAPHIC AND FILM PROJECT

Section 521(a) states that the Congress finds that the federally supported photographic projects of the 1930's created a priceless national resource, and that the time of the Bicentennial presents the opportunity to create a similar portrait, through photographs and film, of the people and communities of the United States:

Section 521(b) states that the purpose of this Part is to establish the American Bicentennial photographic and film project by providing assistance to State arts agencies and with the National Endowment for the Arts serving as national coordinator for the project.

Section 522(a)(1) authorizes to be appropriated for the purposes of this Part \$5,000,000 for the fiscal year 1977, \$5,000,000 for the fiscal year 1978 and such sums as may be necessary for the ensuing two fiscal years.

Section 522(a)(2) provides that such amounts as are appropriated shall remain available until expended.

Section 522(b) that not more than one-fifth of the sums appropriated shall be reserved for the Arts Endowment for the purposes of section 524, and that the remainder shall be apportioned among the States, with the first \$3,000,000 allocated to the States in equal amounts, and the remaining amount on the basis of State population.

Section 523 authorizes the Arts Endowment to provide financial assistance to the State arts agencies from the sums appropriated to carry out this Part, and provides that such assistance shall apply to appropriate equipment and supplies, for administrative personnel, for cataloging and processing and display of the photographs and films produced.

Section 523(b)(1) provides the Arts Endowment with authority to determine necessary application procedures.

Section 523(b)(2) prescribes that in providing financial assistance the Endowment shall give priority to promising photographers and films makers who are either unemployed or underemployed.

Section 524 prescribes that the Endowment from funds appropriated to carry out this Part pay necessary administrative costs and provide direct assistance to applicants of special merit. This section further prescribes that the Endowment assure that representative photographs and films and negatives where appropriate are made available for the permanent collection of the Library of Congress.

*to the  
National  
Endowment  
for the  
Arts*