

104TH CONGRESS
1ST SESSION

S. 1045

To amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to privatize the National Foundation on the Arts and the Humanities and to transfer certain related functions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 17 (legislative day, JULY 10), 1995

Mr. ABRAHAM (for himself and Mr. COATS) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to privatize the National Foundation on the Arts and the Humanities and to transfer certain related functions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “The National Founda-
5 tion on the Arts and Humanities Privatization Act of
6 1995”.

1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) NATIONAL ENDOWMENT FOR THE ARTS.—Sec-
3 tion 11 of the National Foundation on the Arts and the
4 Humanities Act of 1965 (20 U.S.C. 960) is amended to
5 read as follows:

6 **“SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

7 “(a) IN GENERAL.—

8 “(1) TOTAL AUTHORIZATION.—There are au-
9 thorized to be appropriated to carry out the activi-
10 ties of the National Endowment for the Arts under
11 this Act, or to administer any other program for
12 which the Chairperson of the National Endowment
13 for the Arts is responsible—

14 “(A) \$133,920,000 for fiscal year 1996;

15 “(B) \$100,440,000 for fiscal year 1997;

16 “(C) \$66,960,000 for fiscal year 1998; and

17 “(D) \$33,480,000 for fiscal year 1999.

18 “(2) FUNDRAISING.—From the amounts appro-
19 priated under paragraph (1), the following amounts
20 shall be reserved to support private fundraising ac-
21 tivities for the National Endowment for the Arts:

22 “(A) For fiscal year 1996, \$3,348,000.

23 “(B) For fiscal year 1997, \$6,960,000.

24 “(C) For fiscal year 1998, \$10,044,000.

25 “(D) For fiscal year 1999, \$13,392,000.

1 “(3) ADMINISTRATION.—Not to exceed 12 per-
 2 cent of the amounts remaining for a fiscal year
 3 under paragraph (1), after amounts are reserved
 4 under paragraph (2), shall be reserved to administer
 5 the provisions of this Act, or any other program, for
 6 which the Chairperson of the National Endowment
 7 for the Arts is responsible.

8 “(4) SUMS REMAINING AVAILABLE.—Sums ap-
 9 propriated pursuant to paragraph (1) for any fiscal
 10 year shall remain available for obligation until ex-
 11 pended.

12 “(b) NATIONAL ENDOWMENT FOR THE HUMAN-
 13 ITIES.—

14 “(1) TOTAL AUTHORIZATION.—There are au-
 15 thorized to be appropriated to carry out the activi-
 16 ties of the National Endowment for the Humanities
 17 under this Act, or to administer any other program
 18 for which the Chairperson of the National Endow-
 19 ment for the Humanities is responsible—

20 “(A) \$141,600,000 for fiscal year 1996;

21 “(B) \$106,200,000 for fiscal year 1997;

22 “(C) \$70,800,000 for fiscal year 1998; and

23 “(D) \$35,400,000 for fiscal year 1999.

24 “(2) FUNDRAISING.—From the amounts appro-
 25 priated under paragraph (1), the following amounts

1 shall be reserved to support private fundraising ac-
2 tivities for the National Endowment for the Human-
3 ities:

4 “(A) For fiscal year 1996, \$3,540,000.

5 “(B) For fiscal year 1997, \$7,080,000.

6 “(C) For fiscal year 1998, \$10,620,000.

7 “(D) For fiscal year 1999, \$14,160,000.

8 “(3) ADMINISTRATION.—Not to exceed 12 per-
9 cent of the amounts remaining for a fiscal year
10 under paragraph (1), after amounts are reserved
11 under paragraph (2), shall be reserved to administer
12 the provisions of this Act, or any other program, for
13 which the Chairperson of the National Endowment
14 for the Humanities is responsible.

15 “(4) SUMS REMAINING AVAILABLE.—Sums ap-
16 propriated pursuant to paragraph (1) for any fiscal
17 year shall remain available for obligation until ex-
18 pended.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) NATIONAL COUNCIL ON THE ARTS.—Sec-
21 tion 6(f) of the National Foundation on the Arts
22 and the Humanities Act of 1965 (20 U.S.C. 955(f))
23 is amended in the fifth sentence by striking “10 per
24 centum of the sums appropriated for that fiscal year
25 pursuant to subparagraph (A) of paragraph (1) of

1 section 11(a)” and inserting “10 percent of the
2 amount made available for that fiscal year pursuant
3 to paragraph (1) of section 11(a) and remaining
4 after amounts are reserved under paragraphs (2)
5 and (3) of such section”.

6 (2) NATIONAL ENDOWMENT FOR THE HUMAN-
7 ITIES.—Section 7(h)(2)(B) of the National Founda-
8 tion on the Arts and the Humanities Act of 1965
9 (20 U.S.C. 956(h)(2)(B)) is amended by striking
10 “or from Federal sources other than funds author-
11 ized by section 11(a)(3)”.

12 (3) NATIONAL COUNCIL ON THE HUMAN-
13 ITIES.—Section 8(f) of the National Foundation on
14 the Arts and the Humanities Act of 1965 (20
15 U.S.C. 957(f)) is amended in the last sentence by
16 striking “10 per centum of the sums appropriated
17 for that fiscal year pursuant to subparagraph (B) of
18 paragraph (1) of section 11(a)” and inserting “10
19 percent of the amount made available for that fiscal
20 year pursuant to paragraph (1) of section 11(b) and
21 remaining after amounts are reserved under para-
22 graphs (2) and (3) of such section”.

1 **SEC. 3. REPEAL OF THE NATIONAL FOUNDATION ON THE**
 2 **ARTS AND THE HUMANITIES ACT OF 1965.**

3 (a) IN GENERAL.—The National Foundation on the
 4 Arts and the Humanities Act of 1965 (20 U.S.C. 951 et
 5 seq.), as amended by section 2, is repealed.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 subsection (a) shall take effect on September 30, 1999.

8 (c) CONFORMING AMENDMENTS.—

9 (1) MUSEUMS AND ARTS AND ARTIFACTS.—

10 (A) MUSEUM SERVICES ACT.—

11 (i) ESTABLISHMENT.—Section 203 of
 12 the Museum Services Act (20 U.S.C. 962)
 13 is amended by striking “within the Na-
 14 tional Foundation on the Arts and the Hu-
 15 manities,”.

16 (ii) BOARD MEMBERS.—Section
 17 204(a)(2)(A) of the Museum Services Act
 18 (20 U.S.C. 963(a)(2)(A)) is amended—

19 (I) by striking clauses (i) and
 20 (ii); and

21 (II) by redesignating clauses (iii)
 22 and (iv) as clauses (i) and (ii), respec-
 23 tively.

24 (iii) DIRECTOR OF THE INSTITUTE.—
 25 Section 205(b) of the Museum Services
 26 Act (20 U.S.C. 964(b)) is amended by

1 striking “the National Endowment for the
2 Arts, the National Endowment for the Hu-
3 manities,”.

4 (B) ARTS AND ARTIFACTS INDEMNITY
5 ACT.—

6 (i) IN GENERAL.—Section 2 of the
7 Arts and Artifacts Indemnity Act (20
8 U.S.C. 971) is amended—

9 (I) by striking the section head-
10 ing and inserting “INDEMNITY FOR
11 EXHIBITIONS OF ARTS AND ARTI-
12 FACTS”;

13 (II) in subsection (a), by striking
14 “The Federal Council” and all that
15 follows through “is authorized” and
16 inserting “The Program Director for
17 Arts and Artifacts (referred to in this
18 Act as the ‘Program Director’) is au-
19 thorized”; and

20 (III) by striking subsection (b).

21 (ii) PROGRAM DIRECTOR.—The Arts
22 and Artifacts Indemnity Act (20 U.S.C.
23 975 et seq.), as amended by clause (i), is
24 amended by striking “Council” each place

1 such term appears and inserting “Program
2 Director”.

3 (2) EFFECTIVE DATE.—The amendments made
4 by paragraph (1) shall take effect on September 30,
5 1998.

6 (d) ADDITIONAL CONFORMING AMENDMENTS.—

7 (1) RECOMMENDED LEGISLATION.—The Chair-
8 person of the National Endowment for the Arts, the
9 Chairperson of the National Endowment for the Hu-
10 manities, and the Director of the Institute of Mu-
11 seum Services shall jointly prepare and submit to
12 Congress recommended legislation containing tech-
13 nical and conforming amendments to reflect the
14 changes made by this section.

15 (2) SUBMISSION TO CONGRESS.—Not later than
16 1 year after the date of enactment of this Act, the
17 Chairpersons and the Director described in para-
18 graph (1) shall submit the recommended legislation
19 referred to under such paragraph.

20 **SEC. 4. TRANSFER OF FUNCTIONS AND SAVINGS PROVI-**
21 **SIONS.**

22 (a) DEFINITIONS.—For purposes of this section, un-
23 less otherwise provided or indicated by the context—

24 (1) the term “Council” means the Federal
25 Council on the Arts and Humanities established

1 under section 9 of the National Foundation on the
2 Arts and the Humanities Act of 1965 (20 U.S.C.
3 958);

4 (2) the term “Director”, without further modi-
5 fication, means the Director of the Institute of Mu-
6 seum Services;

7 (3) the term “Federal agency” has the meaning
8 given to the term “agency” by section 551(1) of title
9 5, United States Code;

10 (4) the term “function” means any duty, obli-
11 gation, power, authority, responsibility, right, privi-
12 lege, activity, or program;

13 (5) the term “office” includes any office, ad-
14 ministration, agency, institute, unit, organizational
15 entity, or component thereof; and

16 (6) the term “Program Director” means the
17 Program Director for Arts and Artifacts of the In-
18 stitute of Museum Services.

19 (b) TRANSFER OF FUNCTIONS.—There are trans-
20 ferred to the Institute of Museum Services established
21 under section 203 of the Museum Services Act (20 U.S.C.
22 962) all functions that the Council exercised before the
23 effective date of this section (including all related func-
24 tions of any officer or employee of the Council) relating

1 to any action carried out under the Arts and Artifacts In-
2 demnity Act (20 U.S.C. 971 et seq.)

3 (c) DETERMINATIONS OF CERTAIN FUNCTIONS BY
4 THE OFFICE OF MANAGEMENT AND BUDGET.—If nec-
5 essary, the Office of Management and Budget shall make
6 any determination of the functions that are transferred
7 under subsection (b).

8 (d) DELEGATION AND ASSIGNMENT.—Except where
9 otherwise expressly prohibited by law or otherwise pro-
10 vided by this section, the Director may delegate any of
11 the functions transferred to the Institute of Museum Serv-
12 ices by this section and any function transferred or grant-
13 ed to such Institute of Museum Services after the effective
14 date of this section to such officers and employees of the
15 Institute of Museum Services as the Director may des-
16 ignate, and may authorize successive redelegations of such
17 functions as may be necessary or appropriate. No delega-
18 tion of functions by the Director under this section or
19 under any other provision of this section shall relieve such
20 Director of responsibility for the administration of such
21 functions.

22 (e) REORGANIZATION.—The Director may allocate or
23 reallocate any function transferred under subsection (b)
24 among the officers of the Institute of Museum Services,
25 and may establish, consolidate, alter, or discontinue such

1 organizational entities in the Institute of Museum Services
2 as may be necessary or appropriate.

3 (f) RULES.—The Director, acting through the Pro-
4 gram Director, may prescribe, in accordance with chapters
5 5 and 6 of title 5, United States Code, such rules and
6 regulations as the Director determines to be necessary or
7 appropriate to administer and manage the functions trans-
8 ferred by this section.

9 (g) TRANSFER AND ALLOCATIONS OF APPROPRIA-
10 TIONS AND PERSONNEL.—Except as otherwise provided
11 in this section, the personnel employed in connection with,
12 and the assets, liabilities, contracts, property, records, and
13 unexpended balances of appropriations, authorizations, al-
14 locations, and other funds employed, used, held, arising
15 from, available to, or to be made available in connection
16 with, the functions transferred by this section, subject to
17 section 1531 of title 31, United States Code, shall be
18 transferred to the Institute of Museum Services. Unex-
19 pended funds transferred pursuant to this subsection shall
20 be used only for the purposes for which the funds were
21 originally authorized and appropriated.

22 (h) INCIDENTAL TRANSFERS.—The Director of the
23 Office of Management and Budget, at such time or times
24 as such Director shall provide, may make such determina-
25 tions as may be necessary with regard to the functions

1 transferred by this section, and make such additional inci-
2 dental dispositions of personnel, assets, liabilities, grants,
3 contracts, property, records, and unexpended balances of
4 appropriations, authorizations, allocations, and other
5 funds held, used, arising from, available to, or to be made
6 available in connection with such functions, as may be nec-
7 essary to carry out this section. The Director of the Office
8 of Management and Budget shall provide for the termi-
9 nation of the affairs of all entities terminated by this sec-
10 tion and for such further measures and dispositions as
11 may be necessary to effectuate the purposes of this sec-
12 tion.

13 (i) EFFECT ON PERSONNEL.—

14 (1) TERMINATION OF CERTAIN POSITIONS.—
15 Positions whose incumbents are appointed by the
16 President, by and with the advice and consent of the
17 Senate, the functions of which are transferred by
18 this section, shall terminate on the effective date of
19 this section.

20 (2) ACTIONS.—Subject to subsection (k), the
21 Director shall take such actions as may be nec-
22 essary, including reduction in force actions, consist-
23 ent with sections 3502 and 3595 of title 5, United
24 States Code, to ensure that the positions of person-

1 nel transferred pursuant to this section are sepa-
2 rated from service.

3 (j) SAVINGS PROVISIONS.—

4 (1) CONTINUING EFFECT OF LEGAL DOCU-
5 MENTS.—All orders, determinations, rules, regula-
6 tions, permits, agreements, grants, contracts, certifi-
7 cates, licenses, registrations, privileges, and other
8 administrative actions—

9 (A) that have been issued, made, granted,
10 or allowed to become effective by the President,
11 any Federal agency or official of a Federal
12 agency, or by a court of competent jurisdiction,
13 in the performance of functions that are trans-
14 ferred under this section; and

15 (B) that were in effect before the effective
16 date of this section, or were final before the ef-
17 fective date of this section and are to become
18 effective on or after the effective date of this
19 section;

20 shall continue in effect according to their terms until
21 modified, terminated, superseded, set aside, or re-
22 voked in accordance with law by the President, the
23 Director, acting through the Program Director, or
24 other authorized official, a court of competent juris-
25 diction, or by operation of law.

1 (2) PROCEEDINGS NOT AFFECTED.—

2 (A) IN GENERAL.—This section shall not
3 affect any proceedings, including notices of pro-
4 posed rulemaking, or any application for any li-
5 cense, permit, certificate, or financial assistance
6 pending before the Council on the effective date
7 of this section, with respect to functions trans-
8 ferred by this section.

9 (B) CONTINUATION.—Such proceedings
10 and applications shall be continued. Orders
11 shall be issued in such proceedings, appeals
12 shall be taken from the orders, and payments
13 shall be made pursuant to the orders, as if this
14 section had not been enacted, and orders issued
15 in any such proceedings shall continue in effect
16 until modified, terminated, superseded, or re-
17 voked by a duly authorized official, by a court
18 of competent jurisdiction, or by operation of
19 law.

20 (C) CONSTRUCTION.—Nothing in this
21 paragraph shall be construed to prohibit the
22 discontinuance or modification of any such pro-
23 ceeding under the same terms and conditions
24 and to the same extent that such proceeding

1 could have been discontinued or modified if this
2 section had not been enacted.

3 (3) SUITS NOT AFFECTED.—This section shall
4 not affect suits commenced before the effective date
5 of this section, and in all such suits, proceedings
6 shall be had, appeals taken, and judgments rendered
7 in the same manner and with the same effect as if
8 this section had not been enacted.

9 (4) NONABATEMENT OF ACTIONS.—No suit, ac-
10 tion, or other proceeding commenced by or against
11 the Council, or by or against any individual in the
12 official capacity of such individual as an officer of
13 the Council, shall abate by reason of the enactment
14 of this section.

15 (5) ADMINISTRATIVE ACTIONS RELATING TO
16 PROMULGATION OF REGULATIONS.—Any administra-
17 tive action relating to the preparation or promulga-
18 tion of a regulation by the Council relating to a
19 function transferred under this section may be con-
20 tinued by the Institute of Museum Services with the
21 same effect as if this section had not been enacted.

22 (k) TRANSITION.—The Director, acting through the
23 Program Director, may utilize—

24 (1) the services of such officers, employees, and
25 other personnel of the Council with respect to func-

1 tions transferred to the Institute of Museum Serv-
2 ices by this section; and

3 (2) funds appropriated to such functions;
4 for such period of time as may reasonably be needed to
5 facilitate the orderly implementation of this section.

6 (l) REFERENCES.—A reference in any other Federal
7 law, Executive order, rule, regulation, or delegation of au-
8 thority, or any document of or relating to the Council with
9 regard to functions transferred under subsection (b), shall
10 be deemed to refer to the Director, acting through the
11 Program Director.

12 (m) ADDITIONAL CONFORMING AMENDMENTS.—

13 (1) RECOMMENDED LEGISLATION.—After con-
14 sultation with the appropriate committees of Con-
15 gress and the Director of the Office of Management
16 and Budget, the Director, acting through the Pro-
17 gram Director, shall prepare and submit to Congress
18 recommended legislation containing technical and
19 conforming amendments to reflect the changes made
20 by this section.

21 (2) SUBMISSION TO CONGRESS.—Not later than
22 6 months after the effective date of this section, the
23 Director shall submit the recommended legislation
24 referred to under paragraph (1).

1 (n) EFFECTIVE DATE.—This section shall take effect
2 on September 30, 1998.

3 **SEC. 5. APPOINTMENT OF A PROGRAM DIRECTOR TO THE**
4 **INSTITUTE OF MUSEUM AND LIBRARY SERV-**
5 **ICES.**

6 (a) IN GENERAL.—The Museum Services Act (20
7 U.S.C. 961 et seq.) is amended by inserting after section
8 205 the following new section:

9 **“SEC. 205A. PROGRAM DIRECTOR FOR ARTS AND ARTI-**
10 **FACTS.**

11 “(a) IN GENERAL.—Not later than September 30,
12 1998, the President shall, by and with the advice and con-
13 sent of the Senate, appoint a Program Director for Arts
14 and Artifacts to the Institute of Museum Services to carry
15 out the functions described in the Art and Artifacts In-
16 demnity Act (20 U.S.C. 971 et seq.).

17 “(b) COMPENSATION.—The position of Program Di-
18 rector for Arts and Artifacts shall be a Senior Executive
19 Service position, which shall be paid at a rate of pay for
20 a position at ES–1 of the Senior Executive Service Sched-
21 ule.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on September 30, 1998.

1 **SEC. 6. SENSE OF THE SENATE REGARDING ADDITIONAL**
2 **TAX INCENTIVES FOR CHARITABLE DONA-**
3 **TIONS.**

4 It is the sense of the Senate that additional tax incen-
5 tives for charitable donations should be provided, such as
6 tax deductions for nonitemizers, the elimination of the cap
7 on charitable deductions, and a specific tax credit for do-
8 nations to the newly constituted national organization.

○

S 1045 IS——2