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{ REPORT
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ARTS AND HUMANITIES AMENDMENTS OF 1997

SEPTEMBER 24, 1997.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 1020]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1020) to amend the National Foundation on the Arts and Humanities Act of 1965 and the Arts and Artifacts Indemnity Act to improve and extend the Acts, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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ARTS AND HUMANITIES AMENDMENTS OF 1997

I. Introduction

Last reauthorized in 1990, the authority for the National Foundation on the Arts and Humanities Act expired in 1993. The Labor and Human Resources Committee passed the "Arts, Humanities and Museum Amendments of 1995," legislation reauthorizing the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum and Library Services on July 19, 1995. No further action on this legislation occurred during the 104th Congress.

S. 1020, "the Arts and Humanities Amendments of 1997," provides an authorization for the National Endowment for the Arts, the National Endowment for the Humanities and the Arts and Artifacts Indemnity Act. The legislation balances the Federal and State roles in supporting arts and humanities projects for the people of this Nation. This legislation makes significant changes to the current law while maintaining the Federal Government's commitment to support of increasing access of all Americans to our Nation's cultural heritage.

II. Purpose and summary of the bill

The bill extends the Federal commitment to the arts and humanities while at the same time making significant improvement in areas which have been of concern to the general public and the United States Congress. Those areas include changes to reduce the Federal bureaucracy, increase accountability and share greater responsibility with the States.

Toward these ends the bill provides for a five-year reauthorization of the National Foundation on 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. It is the view of the committee that the agencies do provide valuable services to the people of the Nation and should be maintained. While S. 1020 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 legislation reduces bureaucracy by merging administrative functions, capping administrative costs, and shrinking the National Councils. S.1020 includes provisions to further increase accountability by prohibiting subgranting and non-specific seasonal support, and limiting grants to individuals. In addition, the bill maintains the strong language related to prohibitions on funding obscenity and the strict sanctions against funding obscenity included during the 1990 reauthorization. S. 1020 increases the percentage of funds allotted to the State arts and humanities councils. Finally, S. 1020 includes language throughout the bill giving priority consideration to programs which reach underserved communities or support programs in arts education. The committee believes that the Federal dollars authorized in this bill are well spent when targeted at programs designed to bring the arts to those who are not traditionally or historically exposed to the arts.

Title I authorizes the establishment of the National Foundation on the Arts and Humanities; provides one authorization of appropriations for each of the two Agencies, outlines specific provisions regarding joint administration and division of funds, calls for a study of the feasibility of creating a true endowment that would provide supplemental funding and places a limit on administrative costs. The bill authorizes \$105 million for the NEA in fiscal year 1998 and such sums as necessary in fiscal years 1999 through 2002. The NEH is authorized at a level of \$175 million for fiscal year 1998 and such sums as necessary in fiscal years 1999 through 2002.

The legislation includes a new provision which directs that all funds appropriated above the fiscal year 1997 level of \$99.494 million be directed toward activities which provide instruction in the arts by integrating and incorporating the arts in the teaching of English, math, science, foreign languages, civics and government, economics, history, and geography or for courses in the arts through school programs. Such programs will be subject to evaluation.

Four grant programs are established for the NEA: 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, responsibility and representation. The number of members serving on the National Council on the Arts has decreased from 26 to 20 individuals with limitations placed on reappointment. The practices 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 literature fellowships, National Heritage fellowships or Jazz Masters fellowships. A provision for recapturing funds from financially successful grants has been incorporated in the legislation.

Three grant programs are established at the NEH and important administrative changes have been adopted. The grant programs include: 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.

Finally, title III amends the Arts and Artifacts Indemnity Act and expands its scope to include indemnification for exhibitions originating in the United States and touring the United States, in addition to the current practice of providing indemnification as part of an exchange of a domestic exhibition traveling abroad or for foreign exhibitions touring the United States.

III. Background and committee action

A hearing was held by the Labor and Human Resources Committee on April 29, 1997 entitled "Reauthorization of the National Endowment for the Arts and National Endowment for the Humanities: A Focus on Education." Testimony was received by the Chairperson of the National Endowment for the Humanities, Hon. Sheldon Hackney and Chairperson of the National Endowment for the Arts, Hon. Jane Alexander. Other witnesses included: Dr. Edward Ayers, Professor of History at the University of Virginia, Charlottesville, Virginia; Mr. Jeff Hooper, Producing Artistic Director of Mad River Theater Works, West Liberty, Ohio; Ms. Alicia B. Dandridge, sixth grade teacher at the Marie Reed Learning Center accompanied by former students Juanita Beasely and Kessia Cruz, Washington, DC; and Dr. Victor Swenson, Executive Director of the Vermont Council on the Humanities, Morrisville, Vermont.

On June 15, 1997, Senator Jeffords, (on behalf of himself and Senators Kennedy and Chafee) introduced S. 1020, "the Arts and Humanities Amendments of 1997," a bill to reauthorize the National Foundation on the Arts and Humanities Act of 1965 and for other purposes. Senator Reed was later added as a co-sponsor.

On July 23, 1997, the Labor and Human Resources Committee met to consider S. 1020. An amendment was offered by Senator Susan Collins of Maine which would ensure priority consideration for applicants proposing arts education activities. The amendment was adopted by a voice vote.

Senator Judd Gregg of New Hampshire offered an amendment to increase the percentage of funds available to State arts agencies from 40 percent to 60 percent by reducing the national significance grants from 40 percent to 25 percent and the direct grants from 10 percent to 5 percent. The amendment was defeated by a roll call vote of 9 nays to 9 ayes. The vote on the amendment was as follows:

AYES	NAYS
Mr. Coats	Mr. Jeffords
Mr. Gregg	Mr. Kennedy
Mr. Frist	Mr. Dodd
Mr. DeWine	Mr. Harkin
Mr. Enzi	Ms. Mikulski
Mr. Hutchinson	Mr. Bingaman
Ms. Collins	Mr. Wellstone
Mr. Warner	Mrs. Murray
Mr. McConnell	Mr. Reed

The committee then accepted three amendments offered by Senator John Warner of Virginia by voice vote. The first amendment offered by Senator Warner reduced the authorization level for the NEA from \$175 million to \$105 million. Senator Wellstone asked to be recorded in the negative. Senator Warner's second amendment capped the administrative expense of the NEA and NEH to 17 percent of appropriated funds in fiscal year 1998 and 12 percent of appropriated funds in fiscal years 1999 through 2002. The third amendment offered by Senator Warner provided that no more than 10 percent of the total number of advisory panel members be from any one State.

Senator Mike Enzi of Wyoming then offered an amendment to change the minimum basic State allocation from \$200,000 to the greater of \$200,000 or 1 percent of State partnership grant funds. This amendment was adopted by voice vote.

The committee then accepted an amendment offered by Senator Tim Hutchinson of Arkansas which requires that the NEA provide applicants for grants with a copy of the *Financial Management Guide for Non-profit Institutions* published by the Office of the Inspector General. The amendment was adopted by voice vote.

Chairman Jeffords of Vermont then offered an amendment to clarify the recapture provisions in the NEA and HEH sections of the legislation and a provision allowing the NEH to require higher matches than the 3:1 required for certain activities. This amendment was adopted by voice vote.

The committee then voted for final passage of the bill in the nature of a substitute to S. 1020 which was adopted by a vote of 14 yeas and 4 nays. The vote was recorded as follows:

YEAS	NAYS
Mr. Jeffords	Mr. Coats
Mr. Gregg	Mr. Frist
Mr. DeWine	Mr. Enzi
Ms. Collins	Mr. Hutchinson
Mr. Warner	
Mr. McConnell	
Mr. Kennedy	
Mr. Dodd	
Mr. Harkin	
Ms. Mikulski	
Mr. Bingaman	
Mr. Wellstone	
Mrs. Murray	
Mr. Reed	

IV. Legislative history

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 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 IMLS (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 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 5 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 3 year reauthorization of NEA, NEH, and IMS. On October 24, the Senate passed the appropriations measure including the text of H.R. 4825. 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 the 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 Amendment 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. An amendment requiring comparability of State arts spending 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 3 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.

Committee activity in the 104th Congress

In the 104rd Congress, Senators Jeffords, Kassebaum, Kennedy, Pell, Dodd, and Simpson introduced S. 856 (May 25, 1995), the Arts Humanities and Museums Amendments of 1997, a 4 year extension for the NEA, NEH, and the Institute for Museum and Library Services (IMLS). This committee reported a substitute to S. 856 (S. Rept. 104-135) on July 19, 1995, with amendment by a vote of 12-4. Title II, the Museum and Library Services Act, was offered as an amendment to S. 143, the Workforce Development Act, which passed the Senate on October 11, 1995. The provisions relating to the IMLS, as agreed to during the House/Senate conference on H.R. 1617 and S. 143, were passed as part of H.R. 3610, the Omnibus Consolidated Appropriations Act of 1997 on September 28, 1996.

V. Committee views

The committee had the opportunity to propose questions and comments on the full range of issues relating to the authorization of the NEA and NEH directly to the Chairpersons of both agencies during the hearing held on April 29, 1997. Discussion and debate at the hearing related to the continued existence of the NEA and the NEH, the value and importance of Federal support for culture, the Federal financial commitment, education programs supported by the endowments and finally, how the Agencies could be more responsive to the public who they were created to serve. In addition, Senators heard testimony from individuals who were directly involved in administering education programs which incorporate the arts and humanities in the learning process.

Building upon efforts made during the 104th Congress, S. 1020 addresses those legitimate concerns about issues such as public access to arts and humanities, appropriate use of funds, the State role, and the general responsiveness of the agencies to the needs of the American public. S. 1020 makes significant changes to current law and provides a fundamental re-evaluation of the structure and purpose of the agencies with the goal of providing solutions to problems confronting each agency. It was the consensus of the committee that implementation of significant change was necessary in order to improve the direction and operation of each agency. The bill assures greater accountability to the American people and inspires greater confidence in the knowledge that both the National

Endowment for the Art and the National Endowment for the Humanities exist to serve all Americans by making arts and humanities more accessible.

The bill provides for a five-year authorization for the National Endowment for the Arts, the National Endowment for the Humanities, 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 funds to the States. The intent of this bill is to strike a balance between State and Federal leadership with the goal of ensuring that the arts and humanities are available to all persons of the Nation. Priority language is included throughout the bill to encourage greater access to the arts in underserved communities as well as to place an emphasis on arts education.

The committee feels strongly that one of the main missions of the National Endowment for the Arts must be to facilitate access to the arts in historically underserved communities. Since the United States continues to face budgetary constraints, it is important that, whenever possible, the NEA direct its resources where they will make the most difference in people's lives—by funding projects of artistic excellence and artistic merit that otherwise would not take place because they serve populations that face poverty or geographic isolation. NEA must also place greater emphasis on arts education and other arts-related services to children, especially those children from underserved communities or populations.

The committee recommends that arts in education activities be given priority in all National Endowment for the Arts grants programs. It is the intent of the committee that priority be given to projects that broaden and deepen education experiences, understanding and appreciation of our heritage and culture for student in pre-K–12, and for American of all ages. The goal of lifelong learning in the arts means a special focus not only on the systematic integration of the arts into the pre-K–12 and post-secondary curriculum, but also on projects to extend appreciation for and awareness of art forms and to make the arts available to those Americans who lack adequate opportunities to participate in the arts. Arts education—from curriculum-based arts instruction to artists residencies in schools and senior centers, museum and symphony outreach programs to rural touring performances and exhibitions, master classes and apprenticeship programs in the folk and traditional arts and innovative uses of technology to improve teaching and learning in the arts—gives all Americans opportunities to experience the arts, as learners, as makers, and as audience members. The committee understands that the participation of viable arts organizations like museums, orchestras, and theater companies is an important component in introducing the arts to the lives of individuals across the pre-K–12 and life-long learning spectrum, and believes the Endowment should continue to support the creative mission of this institutions.

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." Underlying all the changed incorporated into this legislation is the singularly important notion which asserts that the National Endowment for the Arts, like other departments or agencies of the Federal Government, exists to provide an important service to all people of this Nation and in doing so, must comply with rules and judgments governing public support as well as 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. The legislation does not prohibit membership service organizations from applying for and receiving funds from the NEA for projects or activities which benefit a broader public interest beyond the narrow purpose of the membership group. This provision prohibiting the use of funds for lobbying or general membership services is included in an effort to maximize funding available for projects that serve the public broadly and to further delineate appropriate uses of Federal funds.

The legislation 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 duplication of functions which clearly could be consolidated. It is the committee's intent to point to the Inspector General, provision of facilities and space, records management, contracting, procurement, printing, and provision of mail and library services as suggested areas for consolidation yet, those functions listed in the legislation should not be interpreted as an exhaustive list. The committee recognizes the need to control administrative expenses to ensure that the maximum amount of appropriated funds are used for grantmaking activities. To this end, the committee urges the NEA and NEH to explore further consolidation and merge common functions, including accounting, personnel and administrative support services.

The committee took further action on administrative costs by placing a 17-percent cap on funds available for administration of the NEA and NEH in fiscal year 1998 and 12-percent cap in fiscal years 1999–2002. Contributions from each Agency's administrative budget for the President's Committee on the Arts and Humanities 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 program support through grant making. 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 grant making.

The legislation provides the agencies with authority to solicit funds in addition to the authority they already have to accept donations, bequests and devises. This provision mirrors the language

which was adopted by the Senate Interior Appropriations subcommittee as part of the fiscal year 1998 appropriations bill. The committee believes that it is appropriate to provide the Agency with the ability, particularly in light of recent program reductions and discussions within Congress to establish a supplemental endowment fund. In providing this authority, the committee want to make clear it recognition that private resources can only enhance but not replace private funding. The committee also recognizes that arts and humanities organizations depend upon the private sector in a variety of ways for funding. The committee wishes to be assured that the endowments seek new sources of funding and avoid fundraising activities that divert and/or supplant tradition sources of support for the arts and humanities. Funds that are raised by the Endowments as well as funds that are donated or bequeathed to the Endowments shall be deposited in an interest bearing account to the credit of the appropriate endowment. Restricted donations may be used for the purposes those benefactors define. Only $\frac{1}{2}$ of the accumulated interest may be used for the grantmaking purposes defined under the Act. Remaining funds will be maintained in the interest bearing account and the accumulation of those funds will be a small first step in creating a true endowment which could supplement the annual Federal appropriations.

The committee limits the amount of funds to be spend on official reception and representation costs. In fiscal year 1998, 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 the expenditure shall not exceed \$50,000 for the remaining fiscal years. The Jefferson Lecture in the Humanities is exempt from this limit.

The legislation sets that authorization of appropriations level for the NEA at \$105 million for fiscal year 1998 and such sums as necessary for fiscal year 1999 through 2002. It sets the authorization of appropriations level for NEH at \$175 million for fiscal year 1998 and such sums as necessary for fiscal years 1999 through 2002.

In addition, the legislation makes any new monies above the fiscal year 1997 level of \$99.494 million appropriated to the NEA available for arts education activities which provide instruction in the arts by integrating and incorporating the arts in the teaching of English, math, science, foreign languages, civics and government, economics, history and geography or for courses in the arts through school programs. The committee believes that the NEA can make a significant difference in the area of arts education by targeting new monies toward this purpose. Students of the arts outperform their non-arts peers. College Board studies from 1995 show that those who had studied the arts 4 or more years scored 59 points higher in the verbal and 44 points higher in the math portions of the SAT compared with students with no course work or experience in the arts.

It is the committee's intent to encourage the broadest range of groups to apply for project support with these new monies available for arts education. The committee is aware of the unique resources and innovative educational programs that cultural groups have developed over the last several years. Many of these programs have included partnerships with local and State school systems to both

supplement and complement education in the schools. It is the committee's intent that this wide range of programs continues to flourish, and that the NEA continue its important role of leveraging public and private resources to support them. These educational programs in and through the arts include a variety of programs both in schools and throughout the community, including but not limited to curricular and extra-curricular arts instruction for youth; summer and afterschool programs; early childhood learning through arts programs; and intergenerational and parent/child arts programs with the focus on arts instruction for youth. It is the committee's intent that programs that provide youth not only with quality arts instruction but also with safe havens, apprenticeship/job skills, and a means to engage in more significant interaction within their communities are also eligible for funding under this category.

The legislation calls on the chairs of the NEA and NEH to study the feasibility of creating a true endowment that would provide supplemental funding to the agencies. The chairs shall jointly conduct this study or complete it by contract and that in so doing they consult with experts in various fields to examine innovative ways of funding a true endowment.

The committee explored several of these options at its hearings during the 104th Congress including private fundraising, government support for an endowment and using a copyright extension to generate new revenues for such a trust. It became clear that, while the creation of a true endowment was desirable, there was little information on the capacity of different sources to fund the endowment.

This study will explore this question as well as others regarding the amount of revenue necessary to fund the trust fund, what kind of revenue could be generated from different sources, and how the endowment could be administered. It is the committee's intent that the scope of the study should not be limited to the list the committee included, but should also include other innovative funding ideas as appropriate. In addition, the study may include an impact assessment of the private fundraising activities of the endowments on the arts and humanities communities.

In completing the study, the committee has instructed that certain experts be consulted including persons with expertise in the arts, humanities, business, charitable giving and copyright industries as well as other appropriate Federal agencies. It is particularly important that, as the copyright option is explored, persons with expertise in this area, including the Register of Copyrights and other government officials, be included. Experts in the copyright industries are essential to provide insight on the economic effects any proposal involving U.S. copyrights will have on our domestic copyright system or on our position in international trade negotiations. Beyond the requirements of the provision, it is the committee's intent that experts in other areas be consulted as appropriate to ensure a comprehensive study. The chairs of the NEA and NEH shall report on their study to Congress within one year of the passage of this legislation.

Significant structural changes made by the committee are intended to streamline the agencies and provide a clear outline as to

how the Endowments should distribute grant funds. The committee has provided a framework which directs the NEA to ensure that the arts 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 for smaller scale projects of the highest artistic excellence and artistic merit and finally, support for arts education and outreach to underserved communities.

Partnerships grants are a redesignation of the basic State grant, yet a greater percentage of grant funds made available to the NEA shall be reserved for this purpose. The formula is modified from current law with each State agency receiving a minimum State allotment which is the greater of either \$200,000 or 1% of the funds available for partnership. Additional funds will be distributed based on the formula 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, representing a 12.5 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 have funds necessary to support projects of high artistic caliber within the community. In addition, it is the committee's hope that States will give consideration to programs designed to bring the arts to those populations that have not been traditionally or historically been exposed to the arts.

National Significance grants are designed to be a category of grants that will reach a wide national audience. National Significance grants represent 40 percent of authorized funds. 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, as well as those which provide support for projects that will serve as models for arts education. Priority consideration shall be given to projects, productions or workshops that increase access to the public of the United States, especially underserved communities, to culture and the arts, including access by touring, by regional or national dissemination, or by geographic dispersion, and to arts education. The goal of this priority language is to further assure that the needs of underserved communities will be fully considered and that institutions and organizations give special consideration to arts education programs which do have an extraordinary positive effect on the young people of this Nation. The committee's intent in creating this category of grants and including the priority consideration is to emphasize the importance of providing support for activities of recognized quality and that have a national significance and that will be widely available to the public. Funds available in this category will ensure that the rich artistic heritage of any one State is available to people throughout the Nation due to the emphasis on touring and dissemination. These grants that reach across State lines are only possible through grants made at the national level. These grants will ensure an exchange and a sharing of our cultural heritage, increase our interaction as an American community, and encourage partnership among and between States through touring.

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 increased matching requirement 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 1:1 ratio. 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 smaller size or smaller scale of the project, 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.

Direct grants represent a smaller category of grant funds designed to increase accessibility of the arts in communities. Direct grants make up 10 percent of the authorized funds. This is the only category of grants where individuals are eligible to apply, and only for fellowships in literature, National Heritage fellowships or Jazz Masters fellowships. 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. The Chairperson must give priority in this category to projects, productions or workshops which will be widely disseminated after completion and to projects, productions or workshops concerning arts education in an effort to provide opportunity for broad participation in such activities. The committee intends for grants within this category to be made available, on a competitive basis—based on artistic excellence and merit—for smaller scale projects, productions or workshops which might not yet have national impact.

Action taken by the committee in limiting fellowships to only those for literature, National Heritage Awards or Jazz Masters is a result of the committee's concerns over a few grants that the committee believes do not meet the high standards of artistic excellence and artistic merit. The committee recognizes that a great many of the grants to individuals have been for projects of superior merit and worth, yet the few dubious examples have forced the committee to take action to provide assurances that the Endowment will exercise good judgement consistent with the use of public monies.

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 and institutions would be unable to support arts education programs which are of great 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 and underserved communities category as part of the 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, it is clear from both the priority language included throughout the bill that such outreach initiatives should also be a fundamental concern and concentration of the Agency in each of the grant categories.

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. Eliminating these practices will reduce the possibility of misuse of Federal funds. The committee strongly believes the practices of subgranting and seasonal support 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 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, advisory panels must recommend more applicants for grants than funding available. Service on advisory panels has been limited to 5 non-consecutive years and provides that no more than 10 percent of the total number of advisory panel members be from one State. The number of laypersons per advisory panel has been increased to two. The lay persons, for purposes of advisory panel membership, shall not include individuals who have previously engaged in the arts as a profession, administered arts programs or served as an employee

of an arts or artists' organization. Panelists who are employees of an organization with a pending application or who have direct or indirect financial interest in a pending application must recuse themselves from panel deliberation until a final decision by the Chairperson on a grant has been made. These changes represent an effort to increase the turnover on the panels, move away from charges of conflict of interest, and encourage greater input from lay individuals who represent local communities throughout the country.

The committee has made significant changes to the National Council of the Arts in hopes of improving its function. 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. National Council members may make a recommendation for the specific amount of funding for a grant award but shall recommend more 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 sanctions 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.

The legislation 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 of original work that often become commercial successes and believes that a portion of the profits from a successful project should be repaid 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.

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 of 10 percent 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 teaching training in the humanities and expects increased participation in these valuable programs to result. 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 strongly believes that the balance between State and national programs is appropriate. At current funding levels for NEH, it is the committee's intent that the State council's funding be continued at a level which is not less than the fiscal year 1997 level.

National Significance grants represent 35 percent of appropriated funds and shall be used to support programs which increase public participation 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. Therefore, these projects are an important priority to be 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 contribu-

tions 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 S. 1020 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. 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 Council's decision making responsibility.

The bill maintains the strict provisions relating to sanctions and repayment for direct or indirect recipients of funding who have failed to satisfy the purpose 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.

Title III—Arts and Artifacts Indemnity Act

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. The legislation broadens the scope of the Arts and Artifacts Indemnity Act allowing exhibitions originating in the United States and touring the United States to be eligible for indemnification. With the extension of indemnification to United States exhibitions touring throughout our Nation, this program will make American exhibitions even more widely available.

VI. COST ESTIMATE

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE
Washington, DC, August 13, 1997.

Hon. JAMES JEFFORDS,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1020, the Arts and Humanities Amendments of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Sadoti.
Sincerely,

JUNE E. O'NEILL.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1020—Arts and Humanities Amendments of 1997

Summary: S. 1020 would amend the National Foundation on the Arts and Humanities Act of 1965 and the Arts and Artifacts Indemnity Act. Authorization for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH) expires at the end of fiscal year 1997. S. 1020 would reauthorize these programs through fiscal year 2002. The bill authorizes a total of \$280 million for 1998 and such sums as may be necessary for 1999–2002. In addition, S. 1020 would allow the chairpersons of the NEA and NEH to solicit donations and to place proceeds in interest-bearing accounts. The bill would allow up to 50 percent of the interest earned to be used on authorized activities. Because the interest could be spent without further appropriations, this provision would increase direct spending. However, this increase is likely to be insignificant.

S. 1020 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 1020 is shown in the following table. The costs of this legislation fall within budget function 500 (Education, Employment, Training, and Social Services).

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Including Adjustments for Inflation						
Spending under current law:						
Budget authority	209	—	—	—	—	—
Estimated outlays	234	140	39	13	—	—
Proposed changes:						
Authorization level	—	280	288	296	305	314
Estimated outlays	—	107	230	273	297	306
Spending under S. 1020:						
Authorization level ²	209	280	288	296	305	314
Estimated outlays	234	247	269	286	297	306
Not Including Adjustments for Inflation						
Spending under current law:						
Budget authority	209	—	—	—	—	—
Estimated outlays	234	140	39	13	—	—
Proposed changes:						
Authorization level	—	280	280	280	280	280
Estimated outlays	—	107	226	263	280	280
Spending under S. 1020:						
Authorization level ¹	209	280	280	280	280	280
Estimated outlays	234	247	265	276	280	280
DIRECT SPENDING						
Spending under current law						
Estimated budget authority	2	—	—	—	—	—
Estimated outlays	2	—	—	—	—	—
Proposed changes						
Estimated budget authority	—	2	2	2	2	2

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
Estimated outlays	—	2	2	2	2	2
Spending under S. 1020						
Estimated budget authority	2	2	2	2	2	2
Estimated outlays	2	2	2	2	2	2

¹The 1997 level is the amount appropriated for that year.²= less than \$500,000.

BASIS OF ESTIMATE

S. 1020 would authorize a total of \$280 million in fiscal year 1998 and such sums as may be necessary for fiscal years 1999–2002 for the National Endowment for the Arts and the National Endowment for the Humanities. Including adjustments for inflation, authorizations would reach \$314 million by 2002. If adjustments for inflation are not assumed, authorizations would not change over the 1999–2002 period. With the exception of a provision that would allow for a slight increase in direct spending, all of the spending under S. 1020 would be subject to appropriations.

National Endowment for the Arts

S. 1020 would authorize \$105 million for fiscal year 1998 and such sums as may be necessary for fiscal years 1999–2002 for the National Endowment of the Arts (NEA). Assuming historical spending patterns, enactment of this section would increase outlays by \$32 million in fiscal year 1998 and by \$447 million from 1998–2002, including adjustments for inflation.

The bill would shrink the size of the National Council of the Arts by reducing its membership from 26 to 20. Up to 17 percent of the NEA's authorizations (\$18 million) could be used for administrative expenses of the NEA in fiscal year 1998. The limitation on administration expenses would fall to 12 percent of the total appropriation in subsequent years. The bill also would set aside the amount over the fiscal year 1997 appropriation of \$99,494,000 (about \$6 million) to be used only for arts education. The remaining funds would be allocated as follows:

10 percent (\$8 million in 1998) would be used for arts education grants,

40 percent (\$33 million in 1998) would be allocated to partnership grants to state and regional entities,

40 percent would be allocated for grants to groups of "demonstrated and substantial artistic and cultural importance for projects that will increase the access of people in the United States to the best arts and culture in the United States," and

10 percent of the funds would be used for direct grants to groups and individuals for arts projects, productions and workshops; as under current law, grants to individuals would be limited to a literature fellowship, a National Heritage Fellowship, or a Jazz Masters Fellowship.

S. 1020 would authorize \$175 million for the National Endowment for the Humanities (NEH). Assuming historical spending patterns, enactment of this section would increase outlays by \$75 million in fiscal year 1998, and by \$776 million from 1998–2002, assuming adjustments for inflation.

As with the NEA, the membership of the National Council on the Humanities would be reduced from 26 to 20, and 17 percent of the NEH's authorization (\$30 million in 1998) could be reserved for administrative expenses in 1998, falling to 12 percent in subsequent years. The remaining funds would be allocated as follows:

30 percent (\$44 million in 1998) would go to state and regional organizations through partnership grants,

35 percent (\$51 million) would be allocated for national grants to groups, individuals, and state agencies for activities relating to education and the public humanities, and

35 percent would be used for grants to encourage research and scholarship in the humanities.

Arts and Artifacts Indemnity Act

The Arts and Artifacts indemnity program was created in 1975 to pay for the loss or damage of art works and artifacts brought into the United States or on exhibition elsewhere when part of an exchange of exhibition. The Arts and Artifacts Indemnity Act authorizes the Federal Council on the Arts and Humanities to make indemnity agreements with individuals, nonprofit organizations and governmental units. The indemnity agreements are backed by the credit of the United States, and the total potential liability is \$3 billion. If an indemnified object is lost or damaged, the federal council must certify the claim and request Congress to authorize payment.

S. 1020 would not increase the total liability of the federal government under this Act, which would remain at \$3 billion. However, it would broaden the types of works that could be indemnified to include exhibitions that originate in and tour the United States.

The bill would authorize such sums as may be necessary to cover the administrative expenses of the council, and to cover any approved claims under the indemnity agreements. The last loss paid by the United States was in 1982 and amounted to \$100,000. CBO has no basis for estimating the potential costs of this section, but it is unlikely that these expenses would be significant.

Estimated intergovernmental and private sector impact: S. 1020 contains no intergovernmental or private sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. The bill would authorize \$234 million in grants for fiscal year 1998 for programs under the National Endowment for the Arts and the National Endowment for the Humanities. These grants provide assistance to organizations, including state and local governments.

Estimate prepared by: Federal Cost: Christina Hawley Sadoti; Impact on State, Local, and Tribal Governments: Marc Nicole, Impact on the Private Sector: Bruce Vavrichek.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

VII. Application of law to legislative branch

S. 1020 reauthorizes the National Endowment for the Arts, the National Endowment for the Humanities and the Arts and Artifacts Indemnity Act, and as such has no application to the legislative branch.

VIII. 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.

IX. Section by section analysis

Arts and Humanities Amendments of 1997

To amend the National Foundation on the Arts and the Humanities Act of 1965 and the Arts and Artifacts Indemnity Act to improve and extend the Acts, and for other purposes.

The short title is presented as the Arts and Humanities Amendments of 1997.

TITLE I—NATIONAL FOUNDATIONS ON THE ARTS AND THE HUMANITIES
ACT OF 1965

Section 1 of the bill amends the National Foundation on the Arts and the Humanities Act to provide a short title to be cited as the “National Foundations on the Arts and the Humanities Act of 1965” and includes a table of contents, indicating how current law will be reorganized, restructured, and replaced.

Section 2 of the bill alters the “Purposes” in current law by changing the number of purposes from 12 to 9 with subparts. The “purposes” are reworded and reordered, but still include some of the same basis tenets as in current law. The first purpose adds a new phrase “to support the arts and the humanities that are essential to social, cultural, and economic progress.” The second purpose reiterates that support of the arts and humanities, while primarily matters for private and local initiative are also appropriate matters of concern for the Federal Government. The bill adds a purpose to “increase access to the arts and the humanities for all persons in the United States, including diverse cultures and urban and rural populations.”

Section 3 of the bill alters current law definitions and adds a new definition of program income. Under Section 3(1) the bill amends the definition of the “arts” to include dance, design, literature, media, music, theater, and visual arts; as well as folk and traditional arts; and the study of the arts through apprenticeships or work-study experiences for artists and art teachers. It eliminates from the current law definition of the “arts” the specific terms opera, film and video, graphic and craft arts, industrial design, architecture and allied fields, creative writing, costume and fashion design, painting, sculpture, and photography. Section 3(5) amends the current law definition of “Humanities” by adding the study and interpretation of “folklore and folklife.” Section 3(6) contains a new definition of “program income” to mean any money earned or received by a recipient of an NEA or NEH grant. It outlines types of income from the sale of an item created, from a licensing fee, a rental fee for equipment, an admission fee, broadcast or distribution right, or a royalty on a patent or copyright. This section also adds definitions of “grant,” “group,” “cultural heritage,” “regional group,” “State,” and “underserved communities.”

TITLE 1—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Section 101 of the bill establishes (authorizes) the National Foundation on the Arts and the Humanities composed of a National Endowment for the Arts, a National Endowment for the Humanities, and an Institute of Museum and Library Services, the purpose of which is to promote a national policy of support for the arts and the humanities in the United States. The bill keeps the same limitation as current law on Federal control.

Section 102 of the bill prohibits grants from being used for the purposes of lobbying or providing membership services for groups.

Section 103 of the bill provides for joint administration of NEA and NEH, with the Inspector General's Office to be shared and ensures non-duplication of administrative functions. This section requires the Chairpersons of NEA and of NEH to prepare a joint administrative plan not later than 60 days after enactment, to be implemented in not less than 180 days.

Section 104 provides for a study on a true endowment. It directs the Chairpersons of NEA and NEH, in consultation with persons with expertise in the arts, humanities, charitable giving, and copyright industries and other appropriate Federal agencies, 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 to support efforts of the NEA and NEH. The Chairpersons shall report the findings of the study to the appropriate committees of Congress not later than one year after the date on which funding is made available under this Act.

Section 105 provides for the authority for the Chairperson of the NEA and the Chairperson of the NEH to solicit, accept, receive, invest and use money and other property bequeathed or devised; or could use, sell, or dispose of such property for carrying out activities of the endowment. The proceeds of all other funds shall be retained by the appropriate Chairperson and the appropriate Chairperson shall invest the proceeds in an interest-bearing account to the credit of the appropriate Endowment. Fifty percent of the accumulated interest may be used for carrying out the purposes of title II or title III. Restricted donations or funds up to \$100,000 in fiscal year 1998 and \$50,000 in fiscal years 1999 through 2000 may be expended for purposes outlined in this section. The Jefferson Lecture in the Humanities is exempt from the cap on the use of donated funds.

Section 106 of the bill provides authorities of appropriations for the Foundation from fiscal year 1998 through fiscal year 2002. It authorizes total appropriations for NEA: \$105,000,000 for fiscal year 1998 and such sums as necessary for fiscal years 1999 through 2002 of which funds are reserved for administration of the Agency, reserves any amount above the fiscal year 1997 level of \$99.494 million for specific arts education activities, 40 percent for partnership grants, 40 percent for national significance grants, 10 percent for direct grants, and 10 percent for arts education and underserved communities grants. Section 106(b) authorizes total appropriations for NEA: \$175,000,000 for fiscal year 1998 and such sums as necessary for fiscal years 1999 through 2002. 30 percent of the amount appropriated is reserved for partnership grants,

(with 5 percent under partnership grants to be reserved for activities relating to elementary and secondary education in the humanities); 35 percent for national significance grants, and 35 percent for scholarly research grants. Section 106(c) limits administrative costs for NEA and NEH to not more than 17 percent of the amount appropriated in fiscal year 1998 and 12 percent of the amount appropriated in fiscal years 1999 through 2002, with not more than \$100,000 available for the President's Committee on the Arts and the Humanities.

National Endowment for the Arts

Section 201 of the bill defines "developing arts organization," "final judgment," "local arts agency," "obscene," "determined to be obscene," "production," "project," "renovation and construction," and "workshop." As in current law, "determined to be obscene" means in the "final judgment of a court of record." When defining "production," the bill eliminates specific arts discipline as part of the definition and simply says it means any activity involving the execution or rendition of the arts, meeting such standards as may be approved by the Chairperson of the NEA. It adds to the term "project" the phrase "to enhance the widest public access, knowledge and understanding of the arts."

Section 202 of the bill establishes the National Endowment for the Arts. It provides that the Chairperson of NEA be appointed by the President by and with advice and consent of the Senate for a 4-year term, as in current law. It allows the Chairperson to serve the remainder of a predecessor's terms, or to serve until a successor is appointed, and the Chairperson is eligible for reappointment.

Section 202(c) of the bill provides a new section for Partnership Grants, those formula grants to States and regional groups, for local arts activities, with preference to arts education and projects that reach rural and urban underserved communities. This section contains similar language as in the current law NEA State grants-in-aid section. Section 202(c) of the bill directs that funds be used for basic State grants and outlines types of projects funded as follows: first, projects that meet standards of excellence and artistic merit; that broaden public access to the arts in rural and urban underserved communities; that enhance the artistic capabilities of developing arts organizations through staff development; and that provide technical assistance to improve long range fiscal planning. Application procedures must be in accordance with a State plan, designating a sole agency for the administration of the State plan; and providing that funds expended as solely for the projects approved by the State agency. Reports are required as they are in current law, describing the progress made, objectives of the plan, and most recent information on projects available to all people and communities in the State, especially to underserved communities. The Chairperson has final approval on whether the State plan satisfies requirements.

Section 202 of the bill authorizes a minimum State allotment of at least \$200,000 or 1 percent of funds reserved for Partnership grants, whichever is greater. If funds are insufficient, then funds would be allotted in equal amounts. In the case of excess funds, 25 percent of funds available would be for the Chairperson to make

grants to States and regional groups. The remainder of the excess would be allotted to each State in equal amounts, with no State receiving less than \$200,000 or 1 percent of the sums available to carry out this paragraph, whichever is greater. In general, the Federal share pays not more than 50 percent of the total cost of activities, with some exceptions. Any portion of funding provided to the State exceeding \$125,000, shall be available to pay up to 100 percent of the cost of the activity, however that portion cannot exceed 20 percent of grant funds available to the State. There is a clause prohibiting supplanting of non-Federal funds. With regard to excess funds, "State" is defined as including those jurisdictions with a population of 200,000 or more.

Section 202(d) of the bill provides a new separate authority for National Significance Grants to groups to increase access of all people, especially underserved communities, to the "best of arts and culture" in the United States. The Chairperson, with the recommendation of the National Council on the Arts provides grants for projects with national, regional or substantial artistic or cultural impact, including projects for long-range financial planning, increased community support; technology use; and access for individuals with disabilities, minority or underserved populations. The Federal share for these grants may not exceed 25 percent with exceptions, or if the annual budget of an institution is in excess of \$3 million, the Federal share is 16.67 percent. The Federal share could pay 50 percent of the projects, however, only 10 percent of the grant funds may be used to pay 50 percent of the cost. In awarding grants under this subsection, the Chairperson shall give priority to projects, productions or workshops that increase access of the public of the United States, especially underserved communities to culture and the arts, including access by touring, by regional or national dissemination, or by geographic dispersion and to arts education.

Section 202(e) of the bill provides a new separate authority for Direct Grants to individuals and groups broadly representative of cultural heritage and geographically representative. However, grants would be awarded only to individuals for literature fellowships, National Heritage Fellowships or Jazz Master Fellowships. The Chairperson with the National Council on the Arts' recommendation provides grants to groups or individuals who meet the standard of artistic excellence and artistic merit. The Federal share is generally 50 percent with not more than 20 percent of the funds available with an increased Federal share. Priority will be given to projects that will be disseminated widely after completion and to projects, productions or workshops concerning arts education.

Section 202(f) of the bill provides a new separate authority for Arts education and underserved communities grants. It would provide grants to State arts agencies and other groups to promote and improve the quality of arts instruction and arts education; to provide instruction in the arts by integrating and incorporating the arts in the teaching of English, math, science, foreign languages, civics and government, economics, history and geography or courses in the arts through school programs; to develop arts faculty; to support arts curricular development; to support apprenticeships, in-

ternships and work-study experiences for artists and arts teachers; to provide technical assistance and increase capacity of developing arts organizations in underserved communities through staff development and long-range fiscal planning. The Federal share would be 50 percent. Those State arts agencies or other groups receiving a grant for certain activities shall conduct evaluations of such programs and report those findings to the Chairperson who shall in turn, report those findings to Congress.

Section 203 of the bill outlines the application process with similar provisions to current law. Applications must be in accordance with regulations and procedures established by the Chairperson. Applications for grants must ensure artistic excellence, be judged by advisory panels, and take into consideration "general standards of decency and respect for the diverse beliefs and values of the public of the U.S." In selecting groups as recipients, preference would be for artistically underserved rural and urban areas, and artists and artistic groups traditionally under represented in the arts and to groups proposing arts education activities. In addition, it requires that the NEA include with each application a copy of the Financial Management Guide for Non-profit organizations that is published by the Office of the Inspector General for the National Endowment for the Arts and the National Endowment for the Humanities. Regulations must reiterate that obscenity is without artistic merit, is not protected speech and will not be funded and clarifies that the disapproval of an application is not to be construed as evidence that work is obscene.

Section 204 of the bill outlines requirements for advisory panels. Panels would review grants on the basis of artistic excellence and artistic merit and would recommend only general ranges of funding. Regulations must ensure that panel members reflect a wide geographic, ethnic and minority representation, as well as diverse cultural points of view and ensure that not more than 10 percent of the aggregate number of members of all the advisory panels are members from the same State. Two of the members would be lay individuals, with knowledge about the arts, but not engaged in arts as a profession or employees of artists or arts organizations. Each panel will make written records of meetings, and make those records available to the public while protecting individual applicants. This section permits site visits of an applicant's work being reviewed. One new clause directs that each panel will recommend more applicants for grants than are anticipated can be provided funding. This section requires that each panel change from year to year and provides that no individual serve more than 5 years, no two of which may be consecutive years. This section prohibits any panel member from serving who has a conflict of interest, i.e., who is an employee or associated with an agency with a pending application or who has any direct or indirect financial interest in any application.

Section 205 of the bill establishes the National Council on the Arts consisting of the Chairperson of the NEA as the Chair of the Council, and reduces the number from 26 (in current law) to 20, the other members appointed by the President, by and with advice and consent of the Senate. The bill describes selection of members who are private citizens widely recognized for their broad knowl-

edge in the arts with established records of service; and having achieved eminence in the arts. These may include practicing artists, civic cultural leaders, members of cultural professions and others who are professionally engaged in the arts; allowing an appropriate distribution of members among the major art fields. The President may consider recommendations by leading national organizations in major art fields. There must be due regard to equitable representation of women, racially diverse individuals, and individuals with disabilities, who are involved in the arts. Members would serve 6-year terms, but these would be staggered, expiring the third day of September in the year of expiration, with some serving the remainder of an individual's term in the case of a vacancy; or serving after expiration until a successor takes office. Due to the reduction in the size of the Council, the bill provides direction as to how the Council shall be reduced. Compensation is changed from current law level of GS-18 to a fixed daily rate not to exceed a GS-15. The Council will meet at least twice, with 11 members constituting a quorum, and all policy meetings will be open to the public.

Section 205 of the bill describes the Council's duties to advise the NEA Chairperson on policies, to review grant applications, and to make recommendations with respect to approval, funding, and criteria of artistic excellence and artistic merit, including the extent to which the applicant serves an underserved community and the extent to which the applicant proposes arts education activities. This section institutes a new provision requiring the National Council to recommend more applications that can be provided funding. The Council is required to have written records of meetings, and to make records available to the public while protecting the privacy of individual applicant for grants. The Chairperson may not approve or disapprove grants until it has received the recommendation of the Council. A new provision would allow the Chairperson to have final authority to approve and to determine the final amount of funding. However, the Chairperson may not approve an application if the Council makes a negative recommendation. In the case of an application or an amendment to an application involving \$35,000 or less or a request for a change in a grant amount of 20 percent or less, the Chairperson may approve or disapprove the amendment if such delegation of authority does not exceed 2 percent of appropriations.

Section 206 of the bill prohibits subgranting and seasonal support to groups. The Chairperson must ensure that no grants except those made to State agency, regional group or a local arts agency which is an agency of local government are used to make grants to any other organization or individual to conduct activity independent of the original grant recipient. This section also includes compliance with Department of Labor standards for minimum compensation for professional performers and related personnel, and compliance with safety and sanitary laws as prescribed by the Secretary of Labor. Grant awards are limited to two for individuals and three for agencies or groups other than a State agency. Groups must be non-profit. An individual receiving direct grants must be a citizen or other national of the United States; be a permanent resident or filing for naturalization; or be not permanently ineli-

gible to become a citizen. The Chairperson distributes payments in installments, so that not more than two-thirds of the grant is disbursed at the time the grant is approved, with the remainder released when the Chair finds compliance. Any loan made must be in accordance with the terms of the Secretary of the Treasury.

Section 207 of the bill outlines administrative provisions for NEA that are comparable to those in current law. The Chairperson must prescribe regulations for the Chairperson's functions. The Chairperson appoints and pays employees, and may procure temporary and intermittent services of experts; utilize voluntary services; make payments, and rent office space. For publications, the Chairperson consults with the Joint Committee on Printing. The Chairperson coordinates the programs of NEA with other Federal agencies and may enter into interagency agreements. The role of the Federal Council on the Arts and the Humanities has been moved to the Arts and Artifacts Indemnity Act.

Section 208 of the bill outlines NEA report requirements. The Chairperson must submit an annual report on or before April 15, summarizing the activities of NEA for the preceding year. Each applicant is required to submit financial reports, a timetable for completion, and assurances that standards of artistic excellence are being met. Each grant recipient must carry out projects as described in the application or justify any requested change in writing; make interim reports, financial reports, and final reports including the condition that standards of artistic excellence and artistic merit are being met. The Chairperson determines the appropriate form of interim reporting, and where practicable requires a copy of the project or production. The Chairman conducts a post-award evaluation. There will be no additional funding unless each recipient has submitted interim, financial and final reports.

Section 209 of the bill delineates sanctions, payment provisions and contains a new "recapture" clause. If any recipient of a grant fails to satisfy the grant purposes, the Chair can deny any subsequent funding after consideration of a post award evaluation. Also direct or indirect recipients are prohibited from using the name of the endowment; and if the product was a publication, it is to carry a disclaimer that the findings, conclusions, recommendations expressed in this publication do reflect the views of NEA. After determining the noncompliance, the Chairperson, after providing reasonable notice and a hearing, could deny further funding and if compliance is impossible, the recipient must repay or arrange for repayment. If a determination has been made that the work is "obscene," after reasonable notice and a hearing, the recipient must repay the funding and no subsequent funding would be provided. Funds repaid are to be deposited in the Treasury as miscellaneous receipts. Section 209 includes a provision that this subsection would not apply to grants made before October of 1990, and would not apply after expiration of a 7-year period.

Section 209 of the bill includes new language for "recapture" provisions whereby a recipient shall pay one-third to one-half of the amount of revenue generated within 5 years after the end of the grant period, but not more than the amount of funding—when that recipient has derived net program income for the creation of an original commercially successful project that exceeds the lesser of

\$50,000 or twice the amount of funding. The U.S. Treasurer would deposit funds paid or repaid under this Act in a special interest bearing account to the credit of the Endowment.

Section 210 of the bill outlines provisions for the National Medal of Arts. A medal of appropriate design is to be awarded by the president on the basis of recommendations from the NCA to individuals or groups deserving of special recognition for their outstanding contribution to the excellence, growth, support, and availability of the arts in the U.S. Awards are limited to 12 in any calendar year. Awards can be for individuals or groups if organized or incorporated in the U.S. The ceremony is a presentation by the President.

TITLE III—NATIONAL ENDOWMENT FOR THE HUMANITIES

Section 301 of the bill includes definitions of “project,” “renovation or construction” and “workshop.”

Section 302 of the bill establishes the National Endowment for the Humanities. It provides that the Chairperson of NEH be appointed by the president by and with advice and consent of the Senate for a 4-year term. The Chair may serve the remainder of a predecessor’s term; or may serve until a successor is appointed; and the Chairperson is eligible for reappointment.

Section 302(c) of the bill authorizes NEH partnership grants, grants to States to assist State entities, to support programs of the humanities councils at the State and local level. It defines “State entity,” and defines “State.” The Chairperson of NEH acting with the recommendation of the National Council on the Humanities is authorized to make grants to assist State entities. The Federal share will be not more than 50 percent of the cost.

Section 302(c) of the bill provides that a State agency be designated as the sole agency for administration of the State plan. In any State agency’s application for a State plan the chief executive officer of the State may appoint members to the State humanities council. These grants provide for expenditure from State funds an amount equal to 50 percent of the portion of funding through the minimum State allotment or 25 percent through partnership grants made, whichever is greater for the fiscal year involved. Funds must be expended solely on activities approved by the State agency to bring the humanities to the public. The State agency must report the progress made toward achieving the objectives of the State plan; including a written description of the level of participation by scholars and scholarly organizations supported; and a description of activities addressing the availability of the humanities to all people. The Chairperson may not approve an application unless the State plan satisfies these requirements.

Section 302(c) of the bill authorizes grants to appropriate State entities, and the language is similar to that in current law. In any State in which the chief executive officer of the State fails to submit an application, the Chairperson may make grants to an appropriate entity in the State, if eight members of the council are appointed by an appropriate officer or agency of the State. The Officer would select members from among individuals who have knowledge or experience in the humanities. If a State fails to submit an application, any appropriate entity desiring to receive a grant may sub-

mit an application accompanied by a State plan, providing assurances of compliance designed to bring the humanities to the public; establishing a membership policy; providing for a nomination process; a membership rotation process; reporting procedures; ensuring public access to information; and making reports as required. The entity must provide public meetings in the State to allow scholars and interested organizations and the public to present views and make recommendations concerning the State plan. The plan must describe the availability of the activities supported by funding were available to all people in the community and the level of participation by scholars and scholarly organizations.

Section 302(c) of the bill provides minimum State allotments of at least \$200,000 as under current law. If funds are insufficient then funds will be allotted in equal amounts. In the case of excess funds, 34 percent of funds available will be for the Chairperson to make grants to State entities. Forty-four percent will be allotted so that each State receives an equal amount. The remainder will be allotted so that each State entity receives an amount that bears the same ratio to the remainder as State population does to national population. In general, the Federal share pays not more than 50 percent of the total cost of activities with some exceptions. That portion of funding, to the State entity, which exceeds \$125,000 may be available to the residents of the State without such portion. However, this portion above \$125,000 which may be available to pay not more than 100 percent of the cost of an activity shall not exceed 20 percent of total funding provided through the grant. Funds shall not be used to supplant non-Federal funds. The Chairperson may not make grants to more than one entity in any State.

Section 302(d) of the bill provides a new section with a separate authority for National Grants for groups, individuals and State agencies or entities to carry out activities relating to education and the public humanities that have a national audience, and are of national significance. Such activities include postsecondary education in the humanities; media projects, projects in museums, by historical organizations; projects in libraries, archives; public humanities projects; endowment building, and technology activities. The Chairperson with the National Council on the Humanities' recommendation makes grants to projects that meet the standard of excellence in the humanities and significance in the humanities. National grant are for the following purposes, some of which appear in current law: to develop a national policy to further the public good through public funding of the humanities; to strengthen research and humanities teaching; to foster information exchange, education, public understanding, and appreciation of the humanities; to support projects that promote literacy; to ensure the benefit of programs otherwise unavailable for geographic or economic reasons; to increase the range of contributors, provide management improvement and long-range financial planning for cultural institutions and organizations; to increase audience participation; to develop new sources of long-term support including renovation or construction of facilities; to stimulate greater cooperation among cultural institutions; and to foster greater citizen involvement in planning the cultural development of a community.

Section 302(e) of the bill provides a new separate authority for research and scholarship grants to encourage the development and dissemination of significant scholarship in the humanities by groups, individuals, and State agencies or entities. These grants include fellowships for college and university faculty, and independent scholars; dissertation grants, summer stipends, and funds for scholarly publications, reference materials, basic research, institutional programs, and preservation. The Chairperson with the National Council on the Humanities' recommendation provides grants for training and workshops, research, and publications in the humanities that have substantial scholarly and cultural significance, and reflect the cultural heritage of the U.S. This section also includes grants for education and public understanding in the humanities; increasing the range of contributors, management improvement, and long-range planning for cultural organizations. Section 302(e) describes grants for training, workshops, and research. A fellowship may be used for study or research at an appropriate nonprofit institution. In the case where admission charges are made to the general public, the total amount of any grant shall not exceed 30 percent of the total of such activities. The Chairperson would give particular regard to scholars, and educational and cultural institutions that traditionally have been under represented.

Section 302(f) defines the Federal and non-Federal share. In general, the Chairperson shall ensure that the aggregate amount of funding provided by the Chairperson through grants in subsections d(2) and e(2) are equal to the non-Federal contributions made for that fiscal year though in cases of grants relating to new sources of long-term support, the Federal share shall be an amount not more than 25 percent of the cost of the activity.

Section 303 in the bill provides application procedures with the Chairperson determining what information is necessary in the application.

Section 304 in the bill describes NEH review panels. The Chairperson may select panel members who have exhibited expertise and leadership in specified fields being reviewed, are broadly representative of diverse humanistic perspectives and geographic factors and who broadly represent cultural diversity.

Section 305 in the bill establishes the National Council on the Humanities, composed of the Chairperson of NEH, who chairs the Council, and changes from 26 (in current law) to 20 the number of other council members appointed by the President, by and with the advice and consent of the Senate. Members are selected from among private citizens who are recognized for their broad knowledge and expertise in, the humanities; have established records of distinguished service, or achieved eminence in the humanities; including scholars and others who are professionally engaged in the humanities. There must be an appropriate distribution of members among major humanities fields. The President may give consideration to recommendations by leading national organizations in the humanities field. There must due regard to equitable representation of women, racially diverse individuals, and individuals with disabilities, who are involved in the humanities. Each member of the Council shall serve a term of 6 years and the terms shall be staggered with the terms of all Council members expiring on the

third day of September in the year of expiration. Council members who have served for 1 term of less than 3 years shall be eligible for reappointment for 1 full term. A member of the Council shall serve until the successor to the member takes office. Due to the reduction in the size of the Council, the bill provides direction as to how the Council shall be reduced. Compensation will be changed from GS-18 in current law to a daily rate not to exceed a GS-15. The Council will meet at least twice during the year, with 11 members constituting a quorum, and all policy meetings will be open to the public.

Section 305 describes the Council's duties to advise the Chairperson with respect to policies, and to make recommendations with respect to approval of grant applications. The Chairperson would not approve or disapprove an application until receiving the Council's recommendations, unless the Council fails to make a recommendation. In case of an application involving \$35,000 or less, the Chairperson may approve or disapprove if such action is then reviewed by the Council, and if funds under such delegation do not exceed 3 percent of appropriations.

Section 306 of the bill outlines limitations on grants. It includes definitions of "production entity," "Group" and "National of the United States." The Chairperson establishes criteria for eligibility. Any group eligible must be nonprofit. A production entity that is a non profit group may be eligible with the advice of the National Council on the Humanities, and if the grant will significantly advance the knowledge and understanding of the humanities in the United States. An individual may be eligible if he/she is a citizen or national and if the Chair determines with the National Council on the Humanities that providing the grant will advance understanding of the humanities in the United States. No grant may be made to an activity if direct or indirect admissions are used for purposes other than assisting the grant recipient to develop high standards of scholarly excellence or encourage greater appreciation of the humanities by the citizens of the U.S. The same Labor Standards apply as listed under title II.

Section 307 of the bill outlines administrative provisions that are similar to current law. The Chairperson must prescribe regulations for the Chairperson's functions. The Chairperson appoints and pays employees, and may procure temporary and intermittent services of experts, utilize voluntary services; make payments, rent office space. For publications, the Chairperson would consult with the Joint Committee on Printing. The Chairperson would coordinate the programs of NEH with other Federal agencies and may enter into interagency agreements.

Section 308 of the bill outlines NEH report requirements, eliminating the State of the Humanities report requirement. The Chairperson must submit an annual report on or before April 15, summarizing the activities of NEH for the preceding year. Each applicant is required to submit financial reports, assure that the conditions of the grant are met including that the work assisted meet the standards of excellence in humanities and significance in the humanities, and if practicable a copy of the work resulting from the activity. Reports are due not later than 90 days after the work is completed. The National Council on the Humanities may submit an

annual report summarizing meetings and recommendations, while protecting the privacy of individual applicants for grants.

Section 309 of the bill delineates sanctions and payment provisions similar to current law and adds new language for “recapture” provisions. If any recipient, direct or indirect fails to satisfy the grant purposes or in case of grant from a State agency fails to comply with the State plan, then the Chair can deny any subsequent funding, after taking into consideration a post-award evaluation. Also, direct and indirect recipients would be prohibited from using the name of the endowment, and a publication would carry a disclaimer that the funding, conclusions, and recommendations expressed in the publication do not reflect the views of NEH. After determining non-compliance the Chairperson can take action after providing reasonable notice and a hearing and if still found in non-compliance, the Chair shall provide no further funding and if compliance is impossible, the recipient must repay or arrange for repayment.

Section 309 of the bill contains new language for “recapture” authority whereby a recipient shall pay one-third to one-half of the amount of revenue generated within 5 years after the end of the grant period, but not more than the amount of funding—when that recipient has derived net program income from the creation of an original, commercially successful NEH activity that exceeds the lesser of \$50,000 or twice the amount of funding. The U.S. Treasurer shall deposit funds paid or repaid under the Act in a special interest bearing account to the credit of the endowment.

Section 310 of the bill authorizes awards. The Jefferson Lecture in the Humanities Award is awarded annually by the chairperson of NEH to one individual for distinguished intellectual achievement in the humanities. Each award shall not exceed \$10,000. The National Humanities Medal may be awarded to individuals who have expanded the understanding of the humanities, broadened citizens engagement with the humanities or helped preserve and expand access of such citizens to important resources in the humanities. Not more than 12 of such medals may be awarded in a calendar year.

Section 102 of the bill provides conforming amendments to the Inspector General Act of 1978. It amends section 8G of The Inspector General Act to allow joint appointment of an Inspector General by the Chairpersons of NEH and NEA.

TITLE II—ARTS AND ARTIFACTS INDEMNITY ACT

Section 301 of the bill amends the Arts and Artifacts Indemnity Act to read as follows:

Section 1 cites the short title as the “Arts and Artifacts Indemnity Act.”

Section 2 of the bill authorizes the Federal Council on the Arts and Humanities, referred to throughout the title as Council, to enter into agreements to indemnify against loss or damage of eligible items on exhibit. It expands indemnity coverage to U.S. exhibits touring the U.S.

Section 3 of the bill outlines the types of items covered by indemnity including: works of art, tapestries, painting, sculpture, folk arts, graphics and craft arts; manuscripts, rare documents, books

printed or published materials; photography, motion pictures, audio and video tape; if these works have educational, cultural historical or scientific value, and the exhibition of which is certified (where appropriate) by the Secretary of State or designee as being in the nation interest. An indemnity agreement would cover items on exhibition when the exhibition originates in the U.S. and, generally when items are part of an exchange of exhibitions. Therefore, indemnity agreements would cover items in an exhibition that originates either in the United States or outside the United States and is touring the United States. It defines "on exhibition" as including the period of time beginning on the date eligible items leave the premises of the lender and ending on the date such items are returned.

Section 4 of the bill provides that any person, nonprofit agency, institution, or government desiring to enter into an indemnity agreement shall submit an application. Each item must be described and the estimated value established and verified. There must be evidence that the item described is the actual item. Policies must be set forth for preparation and exhibition of the item including transportation. The Council would receive the application and enter into an indemnity agreement.

Section 5 of the bill provides that the Council review the estimated value of the items for coverage by an indemnity agreement. The aggregate amount of loss or damage is limited, as in current law, to \$3 billion, and the individual amount for a single exhibition covering loss or damage is \$300 million. The extent of coverage is delineated as follows: for \$2 million or less coverage shall extend only to loss or damage in excess of the first \$15,000; more than \$2 million but less than \$10 million, coverage shall extend to loss in excess of the first \$25,000, not less than \$10 million but less than \$125 million, coverage shall extend to loss in excess of the first \$50,000; not less than \$125 million but less than \$200 million, coverage shall extend to loss in excess of the first \$100,000, and not less than \$200 million, coverage shall extend to loss in excess the first \$200,000.

Section 6 of the bill requires that the Council prescribe regulations for claims adjustment, and in the case of a claim, the Council must certify validity of the claim to the Speaker of the House and President pro tempore of the Senate.

Section 7 of the bill requires that the Council submit a report to the appropriate committees of Congress containing information on all claims paid, pending claims and the aggregate face value of contracts outstanding at the end of the year.

Section 8 establishes the Federal Council on the Arts and Humanities, made up of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute for Museum and Library Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission on Fine Arts, the Archivist of the United States, the Commissioner of the Public Buildings Services of the General Services Administration, the Assistant Secretary of Again, a member designated by the Secretary of State and

a member designated by the Secretary of the Interior, a member designated by the Chairman of the senate Commission on Art and Antiquities, and a member designated by the Speaker of the U.S. House of Representatives. The President shall designate a presiding officer of the Council from among the members and the President is authorized to change the membership of the Council as the President deems necessary to meet changes in Federal programs or the executive branch. The Council shall promote coordination between the activities of the National Foundation on the Arts and Humanities and activities of other Federal agencies as well as encourage an ongoing dialogue in support of the arts and humanities among Federal agencies and carry out the Indemnity program. The following members of the Council shall not carry out the functions of indemnity: the Secretary of the Smithsonian, the Director of the National Gallery of Art; the member of the Council designated by the Chairman of the Senate Commission on Art and Antiquities; and the member of the Council designated by the Speaker of the U.S. House of Representatives.

Section 9 of the bill authorizes appropriations as “such sums as may be necessary” to carry out the Arts and Artifacts Indemnity Act.

X. MINORITY VIEWS OF SENATORS HUTCHINSON AND ENZI

Although we’ve heard many arguments over the years that the NEA is not living up to their original intent of “broadening public access to the arts,” that so much of the Federal share goes to the 6 largest cities in the country, the Agency has soaring administrative costs, and it continues to fund objectionable “art,” we haven’t heard many solutions.

It is our belief that there are potential artists everywhere, in every corner of every State, from the plains in Wyoming to the mountains in West Virginia—from the Mississippi Delta to the potato fields of Idaho.

Contrary to Jane Alexander’s notion that “the areas of nurturing and development of artists tend to be located in a few States,” artists are everywhere—in every city, town, and county across this great Nation, in every home, schoolyard, and playground in America. It is time that this talent is realized.

This legislation offers a number of improvements to the National Endowment for the Arts, and we support those changes. The administrative reforms will free up more money for programs. Restrictions on granting will improve quality and accountability. There is a stronger focus on increasing access to the arts in undeserved areas and a high priority is placed on arts in education. These are all changes that we support, and we believe this legislation is an improvement over the status quo.

We continue to object, however, to the prominence given national activities in general, and the corresponding lack of State and local control over a majority of Federal arts spending. We do, therefore, fundamentally disagree with the mission of this legislation and consequently, do not support it.

An amendment was offered in committee that would have increased the State grant allocation amount from forty percent to sixty percent by reducing national significance and direct grants.

While this amendment would not have eliminated the national activities of the NEA, it would have strengthened State activities, shifting a majority of arts funding to State and local decision-makers and away from the National Council. That change, had it been adopted, would have made this legislation more acceptable to us. Unfortunately, it was defeated on a tie vote.

The Arts Endowment has been riddled with controversial decisions. They have not been mistakes that merely waste taxpayer money, but that offend very basic religious and moral principles of many Americans. While the Agency has made programmatic changes that are aimed at avoiding similar controversies in the future, as long as grant decisions are made by an appointed "national council," there will be no accountability and taxpayers will be unable to expect any genuine changes.

The real issue is whether or not taxpayers have any control over how their money is spent. Some have claimed that State agencies can easily make poor funding decisions. While it is certainly possible that a State arts agency may support an offensive project, taxpayers can easily express feelings to locally elected politicians. Locally appointed or elected panelists will be more sensitive to local values. Individuals have no influence on national panelists who serve at the pleasure of the President and of the NEA.

We believe it is necessary to cut out the "Washington middleman" and send the arts dollars down to the States, so that those who are closest to the unknown writer, the start-up band, or the school child can make wise investments in those who otherwise may have been passed over for the well-endowed Whitney Museum or the Boston Philharmonic.

Additionally, by getting the decision-making out of Washington, the nearly 19 percent in administrative overhead the Agency currently maintains would virtually be abolished, and awarded back to the States. Artists all across America would win under this scenario, and could be recognized by their home State rather than by a bloated bureaucracy in Washington.

Furthermore, it becomes increasingly harder to justify the existence of the NEA Washington bureaucracy when one takes a more careful look at the overhead and salary costs of the Agency. For example, from 1994 to 1996, the administrative costs of the NEA went from a little over 14 percent to almost 19 percent at a time when the Agency was cut by 39 percent, and was faced with a loss of 89 positions—this amounts to almost 20 cents on every dollar of our constituents' hard-earned paychecks!

Our constituents wonder why it costs almost \$19 million to distribute just over \$50 million in NEA funds? And for good reason! These are their hard-earned tax dollars on the line.

A closer analysis of how the NEA spends its administrative budget raises even further questions about the efficiency and effectiveness of the NEA. While the Agency repeatedly complains of the draconian effects of the budget cuts on its staff, over 68 percent of the 154 individuals currently employed by the NEA earn over \$50,000 per year!

To make matters worse, the NEA's own Inspector General uncovered significant problems, deficiencies and abuses during its audit of grantees from 1991–1996: 63 percent of the grantees had project

costs that were not reconcilable to their accounting records; 79 percent had inadequate documentation of personnel costs charged to the grant; and 53 percent had failed to engage independent auditors to conduct grant audits as is required by OMB guidelines. These numbers are alarming and intolerable.

As if this scenario is not gruesome enough, how is it justifiable that the NEA assisted in promoting the President's William D. Ford Federal Direct Student Loan Program? The NEA, under an interagency agreement with the Department of Education, provided design assistance for marketing materials promoting the President's Direct Loan program. Although the Agency claims that the Department of Education reimbursed the Agency \$100,000 under this agreement, the NEA reports that they have no accounting of the time or expenses they incurred in providing these services.

There is example after example of successful and valuable arts projects that are funded by the NEA. There are folk festivals, art classes, traveling museums, concerts and visiting artists. There are institutions and performers that achieve local, regional and even national significance, but they become significant because they appeal to local values. National panels are not qualified to determine local values and they should not be empowered to make these decisions.

The debate over the NEA is really about spending other people's money. It is about who gets to make decisions. It is about who gets to decide what art is good and what art is not. What is and is not worthy of government funding. We do not believe national panels possess any special appreciation that enables them to determine "quality" better than local panels. If we are going to require that taxpayers spend a part of their earnings on the "fine arts," then we should at least allow them to decide what is good art and what is not.

In conclusion, the Senate Committee on Labor and Human Resources has reported a bill that will improve the activities of the National Foundation on the Arts and Humanities and of the individual endowments. We thank the Chairman and his staff for their work on that. But it is the opinion of these two Senators that the improvements do not overcome the underlying structural problems that would remain at the NEA. We remain hopeful that this concern can be addressed when the full Senate takes up the bill for consideration.

TIM HUTCHINSON.
MIKE ENZI.

