

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965,
NATIONAL ENDOWMENT FOR THE ARTS APPROPRIATIONS AS OF FISCAL YEAR 2006,
AND RELATED LEGISLATION**

20 U.S.C. § 951

§ 951. Declaration of findings and purposes

The Congress finds and declares the following:

- (1) The arts and the humanities belong to all the people of the United States.
- (2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.
- (3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.
- (4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.
- (5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.
- (6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.
- (7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.
- (8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.
- (9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

- (10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.
- (11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.
- (12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities.

20 U.S.C. § 952
§ 952. Definitions

As used in this Act

- (a) The term "humanities" includes, but is not limited to, the study and interpretation of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to reflecting our diverse heritage, traditions, and history and to the relevance of the humanities to the current conditions of national life.
- (b) The term "the arts" includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, film, video, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country. [,] and the study and application of the arts to the human environment.
- (c) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, film, video, and tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 5 of this Act [20 U.S.C. § 954].
- (d) The term "project" means programs organized to carry out the purposes of this Act, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance the widest public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes--
 - (1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed \$ 250,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on Humanities, as the case may be (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

- (2) for purposes of sections 5(p), 7(c), (10) and 7(h) [20 U.S.C. §§ 954(p), 956(c)(10), (h)] the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic or humanistic purpose, and (B) two-thirds of the members of the National Council on the Arts and the National Council on the Humanities, as the case may be, (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.
- (e) The term "group" includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.
- (f) The term "workshop" means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.
- (g) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.
- (h) The term "local arts agency" means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations, for the benefit of the community as a whole.
- (i) The term "developing arts organization" means a local arts organization of high artistic promise which--
 - (1) serves as an important source of local arts programming in a community; and
 - (2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.
- (j) The term "determined to be obscene" means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.
- (k) The term "final judgment" means a judgment that is either--
 - (1) not reviewed by any other court that has authority to review such judgment; or
 - (2) is not reviewable by any other court.
- (l) The term "obscene" means with respect to a project, production, workshop, or program that--
 - (1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;
 - (2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and
 - (3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

20 U.S.C. § 953

§ 953. National Foundation on the Arts and the Humanities

- (a) **Establishment; composition.** There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the "Foundation"), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities, a Federal Council on the Arts and the Humanities, and an Institute of Museum [and Library] Services.

- (b) **Purpose.** The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this Act.
- (c) **Prohibition against Federal supervision over policy determination, personnel, or curriculum, or administration or operation of any school or other non-Federal body.** In the administration of this Act no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

20 U.S.C. § 954

§ 954. National Endowment for the Arts

- (a) **Establishment.** There is established within the Foundation a National Endowment for the Arts.
- (b) **Chairperson of the Endowment; term of office; vacancies.**
 - (1) The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.
 - (2) The term of office of the Chairperson shall be four years and the Chairperson shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of the Chairperson. Upon expiration of his term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.
- (c) Program of contracts, grants-in-aid, or loans to groups and individuals for projects and productions; traditionally underrepresented recipients of financial assistance. The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support--
 - (1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;
 - (2) projects productions, meeting professional standards or standards of authenticity or tradition, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;
 - (3) projects productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or standards of professional excellence;
 - (4) projects and productions which have substantial artistic and cultural significance and that reach, or reflect the culture of, a minority, inner city, rural, or tribal community;
 - (5) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;
 - (6) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

- (7) programs for the arts at the local level;
- (8) projects that enhance managerial and organizational skills and capabilities;
- (9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and", and
- (10) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under clause (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44, United States Code, only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501 [44 U.S.C. § 501]. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

Appropriations language that supplements §954(b)
Challenge America Arts Fund: Challenge America Grants

For necessary expenses as authorized by Public Law 89-209, as amended, \$17,000,000, for support for arts education and public outreach activities to be administered by the National Endowment for the Arts, to remain available until expended. [PL 107-63]

[Grants to Individuals]

Of the funds provided to the National Endowment for the Arts:

- (1) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.
 - (2) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or local arts agency, or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.
 - (3) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.
- [PL 108-447, Division E, Title III, Sec. 309]

[Guidelines for Chairman Regarding Grants]

(a) In providing services or awarding financial assistance under the National Foundation on the Arts and the Humanities Act of 1965 from funds appropriated under this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that serve underserved populations.

(b) In this section:

(1) The term "underserved population" means a population of individuals, including urban minorities, who have historically been outside the purview of arts and humanities programs due to factors such as a high incidence of income below the poverty line or to geographic isolation.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(c) In providing services and awarding financial assistance under the National Foundation on the Arts and Humanities Act of 1965 with funds appropriated by this Act, the Chairperson of the National Endowment for the Arts shall ensure that priority is given to providing services or awarding financial assistance for projects, productions, workshops, or programs that will encourage public knowledge, education, understanding, and appreciation of the arts.

(d) With funds appropriated by this Act to carry out section 5 of the National Foundation on the Arts and Humanities Act of 1965--

(1) the Chairperson shall establish a grant category for projects, productions, workshops, or programs that are of national impact or availability or are able to tour several States;

(2) the Chairperson shall not make grants exceeding 15 percent, in the aggregate, of such funds to any single State, excluding grants made under the authority of paragraph (1);

(3) the Chairperson shall report to the Congress annually and by State, on grants awarded by the Chairperson in each grant category under section 5 of such Act; and

(4) the Chairperson shall encourage the use of grants to improve and support community-based music performance and education.

[PL 108-447, Division E, Title III, Sec. 311]

§ 954. National Endowment for the Arts (continued)

(d) **Application for payment; regulations and procedures.** No payment shall be made under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that--

- (1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and
- (2) applications are consistent with the purpose of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this Act from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project,

production, workshop, or program for which the applicant requested financial assistance is or is not obscene.

- (e) **Limitation on amount of grant to group; grants and contracts of the National Endowment for the Arts.** The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.
- (f) **Eligibility for financial assistance.** Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of the Internal Revenue Code of 1986 [26 U.S.C. § 170(c)].
- (g) **Grants to States for projects and productions; applications; terms and conditions of State plans; minimum allotments; excess appropriations; const limitations; grants to regional groups; non-Federal funding; definitions.**
 - (1) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in section 5(c) of this Act [subsec. (c) of this section], and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.
 - (2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairperson and accompany such application with a plan which the Chairperson finds--
 - (A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the "State agency") as the sole agency for the administration of the State plan;
 - (B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c);
 - (C) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may from time to time require, including a description of the progress made toward achieving the goals of the State plan;
 - (D) provides--
 - (i) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow all groups of artists, interested organizations, and the public to present views and make recommendations regarding the State plan; and
 - (ii) a summary of such recommendations and the State agency's response to such recommendations; and
 - (E) contains--

- (i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;
- (ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and
- (iii) a description of projects and productions receiving financial assistance under this subsection that exist or are being developed to secure wider participation of artists, artists' organizations, and arts organizations identified under clause (i) of this subparagraph or that address the availability of the arts to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

- (3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairperson shall be allotted at least \$ 200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph--

- (A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairperson for making grants under this subsection to States and regional groups, and
- (B) the amount of such excess, if any, which remains after reserving in full for the Chairperson the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairperson in equal amounts

but in no event shall any State be allotted less than \$ 200,000.

- (4) (A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds \$ 125,000 shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: Provided, That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.
- (B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

- (C) Funds made available under this subsection shall not be used to supplant non-Federal funds.
 - (D) For the purpose of paragraph (3) and paragraph (4) of this section the term 'regional group' means any multi-state group, whether or not representative of contiguous States.
 - (E) For purposes of paragraph (3)(B), the term "State" includes, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.
- (5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out section 5(c) [subsec. (c) of this section].
- (h) **Suspension of grants for defaults, noncompliance with provisions and plans, and diversion of funds; repayment of funds.** Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that--
- (1) a group is not complying substantially with the provisions of this section;
 - (2) a State agency is not complying substantially with the terms and conditions of its State plan approved under this section; or
 - (3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they were allotted or paid,
- The Chairperson shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.
- (i) **Application for financial assistance; requirements.** It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application--
- (1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;
 - (2) a timetable for the completion of such proposed project, production, workshop, or program;
 - (3) an assurance that the applicant will submit--
 - (A) interim reports describing the applicant's--
 - (i) progress in carrying out such project, production, workshop, or program; and
 - (ii) compliance with this Act and the conditions of receipt of such assistance;
 - (B) if such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's--
 - (i) progress in carrying out such project, production, workshop, or program; and
 - (ii) compliance with this Act and the conditions of receipt of such assistance; and
 - (C) not later than 90 days after--

- (i) the end of the period for which the applicant receives such assistance; or
 - (ii) the completion of such project, production, workshop, or program; whichever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this Act and the conditions of receipt of such assistance; and
- (4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this Act.
- (j) **Regulations for distribution of financial assistance in installments; implementation.** The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that--
 - (1) not more than two-thirds of such assistance may be provided at the time such application is approved; and
 - (2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.
- (k) **Reviews to ensure compliance with regulations.** The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this Act that apply with respect to such assistance, including regulations relating to accounting and financial matters.
- (l) **Use of financial assistance for obscene project, production, etc.; repayment of assistance; exceptions.**
 - (1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance to be provided under this section to such recipient.
 - (2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.
 - (3)
 - (A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.
 - (B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.
- (m) **Labor standards of professional performers and personnel; healthy and safe working conditions.** It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency

receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (k) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as the Secretary of Labor may deem necessary or appropriate to carry out the provisions of this subsection.

- (n) **Labor standards of laborers and mechanics.** It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 USC 276a et seq.). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 FR 3176) [5 U.S.C. § 903 note] and section 2 of the Act of June 13, 1934, as amended (40 USC 276c).
- (o) **Correlation and development of endowment programs with other Federal and non-Federal programs; expenditure of appropriations.** The Chairperson shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this Act which can be made by other Federal agencies under existing programs. The Chairperson may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.
- (p) **Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments; authority of Chairperson.**
 - (1) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level for the purpose of strengthening quality by--
 - (A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

- (B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;
 - (C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;
 - (D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups and local arts agencies to promote effective arts activity at the State and local level, including--
 - (i) support of professional artists in community based residencies;
 - (ii) support of rural arts development;
 - (iii) support of and models for regional, statewide, or local organizations to provide technical assistance to cultural organizations and institutions;
 - (iv) support of and models for visual and performing arts touring; and
 - (v) support of and models for professional staffing of arts organizations and for stabilizing and broadening the financial base for arts organizations;
 - (E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;
 - (F) fostering greater citizen involvement in planning the cultural development of a community; and
 - (G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.
- (2) (A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of--
- (i) raising the artistic capabilities of developing arts organizations by providing for--
 - (I) artistic and programmatic development to enhance artistic capabilities, including staff development; and
 - (II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and
 - (ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.
- (B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).
- (C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).
- (3) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

- (4) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Arts shall have the same authority as is established in subsection (c) and section 10 [20 U.S.C. § 959].
- (q) **National information and data collection system on the arts, artists and art groups, and audiences; development and implementation plan; state of the arts reports.** The Chairperson of the National Endowment for the Arts shall, in ongoing consultation with State and local agencies, relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields, trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. Such system shall be used, along with a summary of the data submitted with State plans under subsection (g), to prepare a periodic report on the state of the arts in the Nation. The state of the arts report shall include a description of the availability of the Endowment's programs to emerging, rural, and culturally diverse artists, arts organizations, and communities and of the participation by such artists, organizations, and communities in such programs. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, not later than October 1, 1992, and quadrennially thereafter.

20 U.S.C. § 954a

§ 954a. Access to the arts through support of education

(a) **Purposes**

The purposes of this section are -

- (1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;
- (2) to develop and stimulate research to teach quality education in the arts; and
- (3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

(b) **Program of contracts or grants**

The Chairperson of the National Endowment for the Arts, is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organization, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will -

- (1) promote and improve the availability of arts instruction for American youth and life-long learning in the arts;
- (2) enhance the quality of arts instruction in programs of teacher education;
- (3) develop arts faculty resources and talents;
- (4) support and encourage the development of improved curriculum materials in the arts;

- (5) improve evaluation and assessment of education in the arts programs and instruction;
 - (6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business colleges and universities;
 - (7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;
 - (8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and
 - (9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.
- (c) **Advisory council on arts education**
 In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.

20 U.S.C. § 955

§ 955. National Council on the Arts

- (a) **Inclusion within the National Endowment for the Arts.** There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the "Council").
- (b) **Appointment and composition of Council.**
 - (1) The Council shall be composed of members as follows:
 - (A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.
 - (B) Members of Congress appointed for a 2-year term beginning on January 1 of each odd-numbered year as follows:
 - (i) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.
 - (ii) One Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.
 - (iii) Two Senator [Senators] appointed by the Majority Leader of the Senate.
 - (iv) One Senator appointed by the Minority Leader of the Senate.
 Members of the Council appointed under this subparagraph shall serve ex officio and shall be nonvoting members of the Council.
 - (C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected--
 - (i) from among private citizens of the United States who--
 - (I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in the arts; and
 - (II) have established records of distinguished service, or achieved eminence, in the arts;
 - (ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

- (iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

- (2) Transition to the new Council composition.
 - (A) Notwithstanding subsection (b)(1)(B), members first appointed pursuant to such subsection shall be appointed not later than December 31, 1997. Notwithstanding such subsection, such members shall be appointed to serve until December 31, 1998.
 - (B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new members shall not be appointed under subsection (b)(1)(C) until the number of Presidentially appointed members is less than 14.
- (c) **Terms of office; vacancies.** Each member appointed under subsection (b)(1)(C) shall hold office for a term of six years, and the terms of office shall be staggered. The terms of office of all Council members appointed under subsection (b)(1)(C) shall expire on the third day of September in the year of expiration. No member appointed under subsection (b)(1)(C) shall be eligible for reappointment during the two-year period following the expiration of such member's term. Any member appointed under subsection (b)(1)(C) appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. Notwithstanding any other provision of this subsection, a member appointed under subsection (b)(1)(C) shall serve after the expiration of such member's term until his successor takes office.
- (d) **Meetings of Council; quorum; written records.**
 - (1) The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Eight members of the Council shall constitute a quorum. All policy meetings of the Council shall be open to the public.
 - (2) The council shall--
 - (A) create written records summarizing--
 - (i) all meetings and discussions of the Council; and
 - (ii) the recommendations made by the Council to the Chairperson; and
 - (B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.
- (e) **Compensation of members.** Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS-18 by section 5332 of title 5 of the United States Code and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (5 USC 5703) for persons in the Government service employed intermittently.
- (f) **Advisory functions; policies, programs, and procedures; recommendations; authority of Chairperson; action by Chairperson pursuant to delegation of authority.** The Council shall advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, duties, or responsibilities under this Act, and review applications for financial assistance under

this Act and make recommendations to the Chairperson with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant. The Council shall make recommendations to the Chairperson concerning--

- (1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 5 [20 U.S.C. § 954(c)(p)] that are determined by panels under section 10(c) [20 U.S.C. § 959(c)] to have artistic excellence and artistic merit; and
- (2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.

The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application. The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation. In the case of an application involving \$ 30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of an expressed and direct delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council, and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (A) of paragraph (1) of section 11(a) [20 U.S.C. § 960(a)].

20 U.S.C. § 955b

§ 955b. National Medal of Arts

(a) Establishment

There is hereby established a National Medal of Arts, which shall be a medal of such design as is deemed appropriate by the President, on the basis of recommendations submitted by the National Council on the Arts, and which shall be awarded as provided in subsection (b) of this section.

(b) Award of Medal; conditions; recipients; presentation ceremonies

- (1) The President shall from time to time award the National Medal of Arts, on the basis of recommendations from the National Council on the Arts, to individuals or groups who in the President's judgment are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States.
- (2) Not more than twelve of such medals may be awarded in any calendar year.
- (3) An individual may be awarded the National Medal of Arts only if at the time such award is made such individual -
 - (A) is a citizen or other national of the United States; or
 - (B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed an application or petition for naturalization in the manner prescribed by section 1445 of title 8 and (ii) is not permanently ineligible to become a citizen of the United States.

- (4) A group may be awarded the National Medal of Arts only if such group is organized or incorporated in the United States.
 - (5) The presentation of the National Medal of Arts shall be made by the President with such ceremonies as the President may deem proper, including attendance by appropriate Members of Congress.
- (c) **Availability of funds**
Funds made available to the National Endowment for the Arts shall be used to carry out this section.

20 U.S.C. § 958

§ 958. Federal Council on the Arts and the Humanities

- (a) **Establishment.** There is established within the Foundation a Federal Council on the Arts and the Humanities.
- (b) **Composition; Chairperson, designation by President; changes in membership to meet changes in programs or executive branch organization.** The Council shall be composed of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum 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 of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Assistant Secretary for Aging, 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 House. The President shall designate the presiding officer of the Council from among the members. The President is authorized to change the membership of the Council from time to time as the President deems necessary to meet changes in Federal programs or executive branch organization..
- (c) **Functions.** The Council shall—
 - (1) advise and consult with the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;
 - (2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;
 - (3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities and the Institute of Museum Services, including joint support of activities, as appropriate;
 - (4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;
 - (5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events;
 - (6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems; and

- (7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.

20 U.S.C. § 959

§ 959. Administrative provisions

- (a) **General authority of Chairpersons.** In addition to any authorities vested in them by other provisions of this Act, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities in carrying out their respective functions, shall each have authority--
 - (1) to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's functions shall be carried out;
 - (2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift; except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 6(f) and 8(f) [20 U.S.C. §§ 955(f) and 957(f)], and may receive a gift of \$ 15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 5(c) and 7(c) [20 U.S.C. §§ 954(c), 956(c)];
 - (3) to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities;
 - (4) to utilize experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title 5, United States Code;
 - (5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law (5 USC 73b-2) [5 U.S.C. § 5703] for persons in the Government service employed without compensation;
 - (6) to make advance, progress, and other payments without regard to section 3324 of title 31, United States Code [;]
 - (7) to rent office space in the District of Columbia; and
 - (8) to make other necessary expenditures.
- (b) **Rules for distribution of donations, bequests, and devises; gifts with or without conditions; transfers for tax purposes.**
 - (1) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which such property is intended, and without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to

each Endowment and each Chairperson of an Endowment shall have authority to receive such property.

- (2) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property.
- (3) For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised.
- (4) For the purpose of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

Appropriations language that supplements § 959(b)

The National Endowment for the Arts and the National Endowment for the Humanities are hereafter authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case. [PL 109-54, Title IV, Sec. 410]

- (c) **Advisory panels; membership; procedures.** The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 6(f) [20 U.S.C. § 955(f)]. When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures--

- (1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;
- (2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;
- (3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;
- (4) to require panels--
 - (A) to create written records summarizing--
 - (i) all meetings and discussions of such panel; and
 - (ii) the recommendations made by such panel to the Council; and
 - (B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;
- (5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and
- (6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

- (d) **Endowment activities reports.** The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairman deems appropriate.
- (e) **Council activities reports.** The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.
- (f) **Post-award evaluation of assisted projects, productions, and programs; reports; extension of time for compliance; failure to satisfy purposes of assistance.**
 - (1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by their respective Endowments under sections 5(c) and

7(c) [20 U.S.C. §§ 954(c), 956(d)]. Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

- (2) (A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved--
 - (i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;
 - (ii) a report describing the project, production, or program carried out with such financial assistance; and
 - (iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.
- (B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.
- (3) If such recipient substantially fails to satisfy the purposes for which such financial assistance is provided and the criteria specified in subsection (c)(3)(A), as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may--
 - (A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;
 - (B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and
 - (C) if such project, production, or program is published, require that the publication contain the following statement: "The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities."

Appropriations language that supplements § 959
Administrative Provisions

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913¹: Provided, That none of the funds appropriated to the National Foundation on

¹ 18 U.S.C. § 1913 (2001):

the Arts and the Humanities may be used for official reception and representation expenses: Provided further, That funds from nonappropriated sources may be used as necessary for official reception and representation expenses: Provided further, That the Chairperson of the National Endowment for the Arts may approve grants up to \$10,000, if in the aggregate this amount does not exceed 5 percent of the sums appropriated for grant-making purposes per year: Provided further, That such small grant actions are taken pursuant to the terms of an expressed and direct delegation of authority from the National Council on the Arts to the Chairperson. [PL 109-54, Title III, Administrative Provisions]

General Provisions

The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. [PL 109-54, Title III General Provisions, Sec. 401]

Estimated overhead charges, deductions, reserves or holdbacks from programs, projects, activities and subactivities to support government-wide, departmental, agency or bureau administrative functions or headquarters, regional or central operations shall be presented in annual budget justifications and subject to approval by the Committees on Appropriations. Changes to such estimates shall be presented to the Committees on Appropriations for approval. [PL 109-54, Title III General Provisions, Sec. 405]

None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government except pursuant to a transfer made by, or transfer provided in, this Act or any other Act. [PL 109-54, Title III General Provisions, Sec. 406]

20 U.S.C. § 960

§ 960. Authorization of Appropriations

- (a) Contracts, grants-in-aid, and loans to groups, individuals, public agencies, and private nonprofit organizations; availability of appropriations; guidelines.
 - (1) (i) For the purpose of carrying out section 5(c) [20 U.S.C. § 954(c)], there are authorized to be appropriated to the National Endowment for the

Lobbying with appropriated moneys. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined under this title or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.

Arts \$ 125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

- (ii) For fiscal years--
 - (I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and
 - (II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;shall be for carrying out section 5(g) [20 U.S.C. § 954(g)].
 - (iii) For fiscal years--
 - (I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and
 - (II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;shall be for carrying out programs under section 5(p)(2) [20 U.S.C. § 954(p)(2)] (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.
- (2) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of--
- (ii) the total amounts received by such Endowment under section 10(a)(2) [20 U.S.C. § 959(a)(2)], including the value of property donated, bequeathed, or devised to such Endowment; and
 - (iii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (10) of section 5(c) [20 U.S.C. § 954(c)(1)-(10)];
- except that the amounts so appropriated to the National Endowment for the Arts shall not exceed \$ 13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.
- (3) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of--
- (i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 5(p)(1) [20 U.S.C. § 954(p)(1)] pursuant to the authority of section 10(a)(2) [20 U.S.C. § 959(a)(2)]; and
 - (ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 5(l)(1) [20 U.S.C. § 954(l)(1)(A)--(F)];

except that the amounts so appropriated to such Endowment shall not exceed \$ 15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

- (C) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.
- (4) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 5(p)(1), section 7(f), and section 7(h)(2) [20 U.S.C. §§ 954(p)(1), 956(f), (h)(2)], as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this Act [20 U.S.C. §§ 951 et seq.].
- (b) Availability of appropriated unexpended funds; notice of availability of funds by advance appropriation.
 - (1) Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation and expenditure until expended.
 - (2) In order to afford adequate notice to interested persons of available assistance under this Act [20 U.S.C. §§ 784 et seq.], appropriations authorized under subsection (a) are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.
- (c) Administrative appropriations.
 - (1) There are authorized to be appropriated to the National Endowment for the Arts \$ 21,200,000" for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this Act [20 U.S.C. §§ 951 et seq.], or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed \$ 100,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed \$ 100,000.
- (d) Total amount of appropriations.
 - (1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed--
 - (A) \$ 167,060,000 for fiscal year 1986,
 - (B) \$ 170,206,400 for fiscal year 1987, and
 - (C) \$ 177,014,656 for fiscal year 1988.
- (e) Prohibition of grants to production workshops using admission proceeds for unauthorized purposes. No grant shall be made to a workshop (other than a workshop conducted by a school, college, or university) for a production for which a direct or indirect admission charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.
- (f) Availability of appropriations for arts education.

- (1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds \$ 175,000,000, 50 percent of such excess shall be available to carry out section 5A [20 U.S.C. § 954a].
- (2) In each fiscal year, the amount made available to carry out section 5A [20 U.S.C. § 954a] shall not exceed \$ 40,000,000, in the aggregate.
- (4) Funds made available to carry out section 5A [20 U.S.C. § 954a] shall remain available until expended.

Appropriations language that supplements § 960

Grants and Administration

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$126,264,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to organizations and individuals pursuant to sections 5(c) and 5(g) of the Act, including \$17,922,000 for support of arts education and public outreach activities through the Challenge America program, for program support, and for administering the functions of the Act, to remain available until expended: Provided, That funds previously appropriated to the National Endowment for the Arts "Matching Grants" account and "Challenge America" account may be transferred to and merged with this account: Provided further, That funds appropriated herein shall be expended in accordance with sections 309 and 311 of Public Law 108-108. [PL 109-54, Title III, National Foundation on the Arts and Humanities, National Endowment for the Arts, Grants and Administration]

No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

[PL 109-54, Title IV, Sec. 402]

No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

[PL 109-54, Title IV, Sec. 403]

Related Agency Language

20 U.S.C. § 971. Arts and Artifacts Indemnity Act

§ 971. Agreements to indemnify against loss or damage

(a) Authorization of Federal Council on the Arts and Humanities

The Federal Council on the Arts and Humanities (hereinafter in this chapter referred to as the "Council"), established under section 958 of this title, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 972 of this title -

- (1) in accordance with the provisions of this chapter; and
- (2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this chapter and, consistent with such purposes, to protect the financial interest of the United States.

(b) Council as "agency"

- (1) For purposes of this chapter, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5.
- (2) For purposes of this chapter, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

§ 972. Items eligible for indemnity agreements

(a) Works of art; printed or published materials; other artifacts or objects; photographs, motion pictures, or tapes

The Council may make an indemnity agreement under this chapter with respect to -

- (1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;
- (2) manuscripts, rare documents, books, and other printed or published materials;
- (3) other artifacts or objects; and
- (4) photographs, motion pictures, or audio and video tape; which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Director of the United States Information Agency or his designee as being in the national interest.

(b) Extension of coverage; "on exhibition" defined

- (1) An indemnity agreement made under this chapter shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.
- (2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

§ 973. Application for indemnity agreements

(a) Parties

Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this chapter shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) Contents

An application under subsection (a) of this section shall -

- (1) describe each item to be covered by the agreement (including an estimated value of such item);

- (2) show evidence that the items are eligible under section 972(a) of this title; and
- (3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Approval

Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this chapter, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

§ 974. Indemnity limits

(a) Approval of estimated values

Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 973 of this title, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this chapter, the Council shall, after approval of the application as provided in subsection (c) of section 973 of this title, make an indemnity agreement.

(b) Maximum limits of coverage

The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed \$10,000,000,000 at any one time.

(c) Limit for single exhibition

No indemnity agreement for a single exhibition shall cover loss or damage in excess of \$1,200,000,000.

(d) Deductible limit

If the estimated value of the items covered by an indemnity agreement for a single exhibition is -

- (1) \$2,000,000 or less, then coverage under this chapter shall extend only to loss or damage in excess of the first \$15,000 of loss or damage to items covered;
- (2) more than \$2,000,000 but less than \$10,000,000 then coverage under this chapter shall extend only to loss or damage in excess of the first \$25,000 of loss or damage to items covered;
- (3) not less than \$10,000,000 but less than \$125,000,000, then coverage under this chapter shall extend to loss or damage in excess of the first \$50,000 of loss or damage to items covered;
- (4) not less than \$125,000,000 but less than \$200,000,000, then coverage under this chapter shall extend to loss or damage in excess of the first \$100,000 of loss or damage to items covered;
- (5) not less than \$200,000,000 but less than \$300,000,000, then coverage under the chapter shall extend only to loss or damage in excess of the first \$200,000, of loss or damage to items covered;

- (6) not less than \$300,000,000 but less than \$400,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first \$300,000 of loss or damage to items covered; or
- (7) \$400,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first \$400,000 of loss or damage to items covered.
- (8) \$500,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first \$500,000 of loss or damage to items covered.

§ 975. Claims for losses

(a) Regulations for prompt adjustment

The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 974 of this title, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) Certification

In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 974 of this title, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

§ 976. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this chapter, and (2) to pay claims certified pursuant to section 975(b) of this title.

§ 977. Annual report to Congress

The Council shall report annually to the Congress (1) all claims actually paid pursuant to this chapter during the preceding fiscal year, (2) pending claims against the Council under this chapter as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year.