

MAINE STATE LEGISLATURE

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CHAPTER 15

THE ARTS (HEADING: PL 1995, c. 264, §2 (rpr))

SUBCHAPTER I

MAINE ARTS COMMISSION (HEADING: PL 1995, c. 264, §2 (new))

27 § 401. Commission

A state commission, to be known as the "Maine Arts Commission," as established by Title 5, section 12004-G, subsection 9, shall consist of not less than 15 nor more than 21 members, each of whom shall have a continuing interest in the fields of art and culture in the State, to be appointed by the Governor from among citizens of Maine. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational and professional associations and groups concerned with or engaged in artistic and cultural fields generally. [1989, c. 503, Pt. B, §115 (amd).]

Section History:

1965, c. 499, § 1 (NEW).

1983, c. 812, § 169 (AMD).

1985, c. 763, § A81 (AMD).

1989, c. 503, § B115 (AMD).

27 § 402. Membership

The term of office of each member shall be 3 years; provided that of the members first appointed, 1/3 shall be appointed for terms of one year, 1/3 for terms of 2 years and 1/3 for terms of 3 years. Other than the chairman, no member of the commission who serves 2 full 3-year terms shall be eligible for reappointment during the one-year period following the expiration of his second such term. The Governor shall designate a chairman and a vice-chairman from the members of the commission, to serve as such at the pleasure of the Governor. The chairman shall be the presiding officer of the commission. All vacancies shall be filled for the balance of

the unexpired term in the same manner as original appointments. The members of the commission shall be compensated according to the provisions of Title 5, chapter 379. [1983, c. 812, § 170 (amd).]

Section History:

1965, c. 499, § 1 (NEW).

1983, c. 812, § 170 (AMD).

27 § 403. Director (REPEALED)

Section History:

1965, c. 499, § 1 (NEW).

1971, c. 610, § 17 (RP).

27 § 403-A. Director of Maine Arts Commission; appointment

The Director of the Maine Arts Commission must be qualified by training or experience and is appointed by the Maine Arts Commission. The director shall serve for an indefinite term subject to removal for cause. The commission shall fix compensation for the director within salary range 88. [1991, c. 528, Pt. E, §32 (amd); Pt. RRR (aff); c. 591, Pt. E, §32 (amd).]

Section History:

1989, c. 700, § B34 (NEW).

1991, c. 528, § E32 (AMD).

1991, c. 528, § RRR (AFF).

1991, c. 591, § E32 (AMD).

27 § 404. Duties

The duties of the commission shall be: [1965, c. 499, § 1 (new).]

1. **Encouragement.** To take such steps as may be necessary and appropriate to encourage and stimulate public interest and participation in the cultural heritage and programs of our State and to expand the state's cultural resources; and [1965, c. 499, § 1 (new).]

2. **Freedom.** To encourage and assist freedom of artistic expression essential for the well-being of the arts; and [1965, c. 499, § 1 (new).]

Revision note: remove and at the end

3. **Surveys.** To make such surveys as may be deemed advisable of public and private institutions engaged within the State in artistic and cultural activities, including, but not limited to, music, theatre, dance, painting, sculpture, architecture, literature, history and allied studies and pursuits, and to make recommendations concerning appropriate methods of encouraging participation in and appreciation of the foregoing to meet the legitimate needs and aspirations of persons in all parts of the State. [1965, c. 499, § 1 (new).]

Revision note: should end in "; and"

4. **Works of art.** To act in an advisory capacity relative to the creation, acquisition, construction or erection by the State of any work of art, to file with the Governor, within 30 days, its opinion of such proposed work of art together with such suggestions and recommendations as it may deem proper. The term "work of art" as used in this subsection shall include any painting, portrait, mural, decoration, stained glass, statue, tablet, bas-relief, ornament, fountain or other article or structure of a permanent character intended for decoration or commemoration, but shall not include "historical materials" administered by the Maine State Museum Commission nor the State Capitol Building, including its exterior, interior, fixtures or decorations. [1987, c. 816, Pt. EE, §7 (amd).]

Section History:

1965, c. 499, § 1 (NEW).

1971, c. 485, § 2 (AMD).

1987, c. 816, § EE7 (AMD).

27 § 405. Hearings; contracts

The commission is authorized and empowered to hold public and private hearings, to enter into contracts, within the limit of funds available, with individuals or organizations, and institutions for services furthering the educational objectives of the commission's programs; to enter into contracts, within the limit of funds available, with local and regional associations for cooperative endeavors furthering the educational objectives of the commission's programs; to establish an endowment fund; to accept gifts, contributions and bequests of funds from individuals, foundations, corporations and other organizations or institutions for the purpose of furthering the educational objectives of the commission's programs; to make and sign any agreements and to do and perform any acts that are necessary to carry out the purposes of this chapter. Any funds, if given as an endowment, must be invested by the Treasurer of State according to the laws governing the investment of trust funds. The commission may request and receive from any department, division, board, bureau, commission or agency of the State such assistance and data as necessary to carry out its powers and duties. [1991, c. 622, Pt. V, §4 (amd).]

Section History:

1965, c. 499, § 1 (NEW).

1991, c. 622, § V4 (AMD).

27 § 406. Funds

The commission is the official agency of the State to receive and disburse any funds made available by the Federal Government for programs related to the purposes of the commission. [1965, c. 499, § 1 (new).]

Section History:

1965, c. 499, § 1 (NEW).

SUBCHAPTER I - NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Sec. 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.

Sec. 952. Definitions

As used in this subchapter -

- (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. ^[1] 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 954 of this title.
- (d) The term "project" means programs organized to carry out the purposes of this subchapter, 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 the 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 954(p), 956(c)(10), and 956(h) of this title only, 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.

Footnotes

[1] So in original. The period probably should be a comma.

Sec. 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 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 subchapter.

- (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 subchapter 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.

Sec. 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 Chairperson. Upon expiration of the chairperson's 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 and 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 and 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 to achieve 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

(10) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection. In the case of publications under paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 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. 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.

- (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 purposes 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 subchapter 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) of this section 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 title 26.

- (g) Grants to States for projects and productions; applications; terms and conditions of State plans; minimum allotments; excess appropriations; cost 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 subsection (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) of this section;
 - (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 multistate 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 952(g) of this title 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 subsection (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 subchapter 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 subchapter 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 subchapter 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 subchapter.

- o (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.

- o (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 subchapter that apply with respect to such assistance, including regulations relating to accounting and financial matters.

- o (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 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.

- o (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 (n) 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 U.S.C. 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 and section 276c of title 40.

○ (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 subchapter 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) of this section 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).

- o (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) of this section and section 959 of this title.

- (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) of this section, 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.

Sec. 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, (FOOTNOTE 1) 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.
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Footnotes

[1] So in original. The comma probably should not appear.

Sec. 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) One Senator 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) of this section, 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) of this section until the number of Presidentially appointed members is less than 14.

- (c) Terms of office; vacancies

Each member appointed under subsection (b)(1)(C) of this section 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) of this section shall expire on the third day of September in the year of expiration. No member appointed under subsection (b)(1)(C) of this section 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) of this section appointed ^[1] 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) of this section shall serve after the expiration of such member's term until such member's 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 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) 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 subchapter, and review applications for financial assistance under this subchapter 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 954 of this title that are determined by panels under section 959(c) of this title 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 960(a) of this title.

Footnotes

[1] So in original.

Sec. 955a. Omitted -COD- CODIFICATION Section, Pub. L. 98-146, title II, Nov. 4, 1983, 97 Stat. 949, which provided that persons serving on National Council on the Arts continue until their successors are qualified for office, was omitted as superseded. See section 955(c) of this title as amended by Pub. L. 98-306. Similar provisions were contained in Pub. L. 97-394, title II, Dec. 30, 1982, 96 Stat. 1994.

Sec. 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.

Sec. 956. National Endowment for the Humanities

- (a) Establishment
There is established within the Foundation the National Endowment for the Humanities.
- (b) Chairperson of the Endowment; appointment, term, reappointment; vacancy; expiration of term
 - (1) The Endowment shall be headed by a chairperson, 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 paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.
- (c) Functions of the Endowment; publications; traditionally underrepresented recipients of financial assistance
The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to -
 - (1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;
 - (2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;
 - (3) initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate nonprofit institutions selected by the recipient of such aid, for stated periods of time);
 - (4) initiate and support programs and research which have substantial scholarly and cultural significance and that reach, or reflect the diversity and richness of our American cultural heritage, including the culture of, a minority, inner city, rural, or tribal community;
 - (5) foster international programs and exchanges;
 - (6) foster the interchange of information in the humanities;
 - (7) foster, with groups, education in, and public understanding and appreciation of the humanities;
 - (8) support the publication of scholarly works in the humanities;
 - (9) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be

unavailable due to geographic or economic reasons; and
(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities. In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 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. 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 scholars, and educational and cultural institutions, that have traditionally been underrepresented.

- (d) Coordination and development of Endowment programs with other Federal and non-Federal programs
The Chairperson shall coordinate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies 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 subchapter which can be made by other Federal agencies under existing programs.
- (e) Limitation on amount of grant for workshop activities for which an admission or other charge is made to the general public
The total amount of any grant under subsection (c)(3) of this section to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.
- (f) Grants-in-aid programs; designation of State administrative agency; matching funds; applications and plans; allotments; cost limitations; grants to regional groups; non-Federal funding; definitions; suspension of grants; single entity limitation
 - (1) The Chairperson, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.
 - (2)
 - (A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date the State agency is established as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection,

whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairperson finds -

- (i) 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;
- (ii) provides that the chief executive officer of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive officer has appointed all of the members of such council;
- (iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;
- (iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) of this section and which are designed to bring the humanities to the public;
- (v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph;
- (vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the State plan;
- (vii) provides -
 - (I) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the State plan; and
 - (II) a summary of such recommendations and of the response of the State agency to such recommendations; and
- (viii) contains -
 - (I) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;
 - (II) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and
 - (III) a description of programs receiving financial

assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under subclause (I) of this clause or that address the availability of the humanities to all people or communities identified under subclause (II) of this clause. No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

- (B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall -
 - (i) establish a procedure which assures that six members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 25 per centum of the total membership of such governing body; and
 - (ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.
- (3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairperson. Each such application shall be accompanied by a plan which the Chairperson finds -
 - (A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);
 - (B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c) of this section;
 - (C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;
 - (D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;
 - (E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;
 - (F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;
 - (G) establishes procedures to assure public access to information relating to such activities;
 - (H) provides that such grant recipient will make reports to the Chairperson, in such form, at such times, and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the plan;

- (I) provides -
 - (i) assurances that the grant recipient has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the plan; and
 - (ii) a summary of such recommendations and of the response of the grant recipient to such recommendations; and
- (J) contains -
 - (i) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;
 - (ii) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and
 - (iii) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under clause (i) of this subparagraph or that address the availability of the humanities 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.
- (4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient 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 and grant recipients 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) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairperson for making grants under this subsection to States and regional groups and entities applying for such grants;
 - (B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairperson; and
 - (C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairperson in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.
- (5)
 - (A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or

application 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 (4) for any fiscal year -

- (i) which exceeds \$125,000, but
 - (ii) which does not exceed 20 per centum of such allotment, shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.
 - (B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairperson 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 purposes of this paragraph, the term "regional group" means any multistate group, whether or not representative of contiguous States.
 - (E) For purposes of paragraph (4)(B), the term "State" and the term "grant recipient" include, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.
 - (6) All amounts allotted or made available under paragraph (4) for a fiscal year which are not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c) of this section.
 - (7) Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that -
 - (A) a group or grant recipient is not complying substantially with the provisions of this subsection;
 - (B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan or grant recipient application approved under this subsection; or
 - (C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid, the Chairperson shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.
 - (8) Except as provided in the third sentence of paragraph (4), and paragraphs (5) and (6), the Chairperson may not make grants under this subsection to more than one entity in any State.
 - (g) Payment of performers and supporting personnel; standards, regulations, and procedures
- It shall be a condition of the receipt of any grant under this section that the group, individual, or

State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel 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 prescribe standards, regulations, and procedures necessary to carry out this subsection.

- (h) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments
 - (1) The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, 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 for the purpose of -
 - (A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program 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) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;
 - (E) fostering greater citizen involvement in planning the cultural development of a community; and
 - (F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.
 - (2)
 - (A) Except as provided in subparagraph (B) of this paragraph, 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.
 - (B) The Chairperson, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such

clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 960(a)(3) of this title, unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment for the Humanities for the purpose of this subsection.

- (3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Humanities shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

- (i) Interagency agreements

The Chairperson may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

- (j) Payment of wages at prevailing rates; authority of Secretary of Labor

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, State agency, or entity 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 U.S.C. 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 and section 276c of title 40.

- (k) National information and data collection system on humanities, scholars, educational and cultural groups, and audiences; development and implementation plan; state of the humanities reports

The Chairperson of the National Endowment for the Humanities shall, in ongoing consultation with State and local agencies, other 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 humanities, scholars, educational and cultural groups, and their audiences. Such system shall include cultural and financial trends in the various humanities fields, trends in audience participation, and trends in humanities education on national, regional, and State levels. Such system shall be used, along with a summary of the data submitted with plans under subsection (f) of this section, to prepare a report on the state of the humanities in the Nation. The state of the humanities report shall include a description of the availability of the Endowment's programs to emerging and culturally diverse scholars, cultural and educational organizations, and communities and of the participation of such scholars, organizations, and communities in such programs. The state of the humanities report shall be submitted to the President and the Congress, and provided the States, not later than October 1, 1992, and quadrennially thereafter.

- (l) Eligibility of group for financial assistance

Any group shall be eligible for financial assistance under 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 section 170(c) of title 26.

o (m) Annual awards

The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

- (1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed \$10,000.
- (2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed \$5,000.

Sec. 956a. National Capital arts and cultural affairs; grant programs

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the Commission of Fine Arts. Not to exceed \$7,500,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia whose primary purpose is performing, exhibiting and/or presenting arts. Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having annual income, exclusive of Federal funds, in excess of \$1,000,000 for each of the three years prior to receipt of a grant. The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Capital Children's Museum, the National Symphony Orchestra, the Washington Opera Society, and Ford's Theater.

The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total annual income, exclusive of Federal funds, compared to the combined total of the annual income, exclusive of Federal funds, of all eligible institutions. No organization shall receive a grant in excess of \$500,000 in a single year.

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

Sec. 957. National Council on the Humanities

- (a) Establishment
There is established in the National Endowment for the Humanities a National Council on the Humanities.
- (b) Composition; basis for selection of members; representation of interests; recommendations of national organizations
The Council shall be composed of the Chairperson of the National Endowment for the Humanities, who shall be the Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities. 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 humanities.
- (c) Term of office; vacancies; reappointment
Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of such member's term. Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of such member's term until such member's successor takes office.
- (d) Meetings; quorum
The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum.
- (e) Compensation and travel expenses
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 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.
- (f) Advisory functions: policies, programs, and procedures; review of applications for financial support; recommendations prerequisite to action of Chairperson; unilateral action by Chairperson pursuant to delegation of authority
The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures

for carrying out the Chairperson's functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving \$30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council: Provided, 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 (B) of paragraph (1) of section 960(a) of this title.

Sec. 957a. Omitted -COD- CODIFICATION Section, Pub. L. 98-146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on National Council on the Humanities continue until their successors are qualified for office, was omitted as superseded. See section 957(c) of this title, as amended by Pub. L. 98-306. Similar provisions were contained in Pub. L. 97-394, title II, Dec. 30, 1982, 96 Stat. 1994.

Sec. 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; presiding officer; 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 Director of the United States Information Agency 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.

Sec. 959. Administrative provisions

- (a) General authority of Chairpersons

In addition to any authorities vested in them by other provisions of this subchapter, 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 955(f) and 957(f) of this title, 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 954(c) and 956(c) of this title;
 - (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;
 - (5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5 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;
 - (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 purposes 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.
- (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 955(f) of this title. 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 subchapter, 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 Chairperson 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 954(c) and 956(c) of this title. 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) ^[1] of this section, 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."
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Footnotes

[1] So in original. Subsec. (c)(3) of this section does not contain a subpar. (A).

Sec. 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)
 - (A)
 - (i) For the purpose of carrying out section 954(c) of this title, there are authorized to be appropriated to the National Endowment for the 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 954(g) of this title.
 - (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 954(p)(2) of this title (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.
 - (B) For the purpose of carrying out section 956(c) of this title, there are authorized to be appropriated to the National Endowment for the Humanities \$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 956(f) of this title.
 - (2)
 - (A) 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 under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; 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 projects and other activities under paragraph (1) through paragraph (10) of section 954(c) of this title; 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.
 - (B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of -
 - (i) the total amounts received by such Endowment under section

959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and
(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees and subgrantees, for use in carrying out activities under paragraph (1) through paragraph (10) of section 956(c) of this title; except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed \$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

- (3)
 - (A) 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 954(p)(1) of this title pursuant to the authority of section 959(a)(2) of this title; 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 954(p)(1) of this title; 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.
 - (B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities 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 956(h)(1) of this title pursuant to the authority of section 959(a)(2) of this title; 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 956(h)(1) of this title; except that the amounts so appropriated to such Endowment shall not exceed \$15,150,000 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 954(e), section 954(l)(2), ^[1] section 956(f), and section 956(h)(2) of this title, as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this subchapter.

- (b) Availability of appropriated unexpended funds; notice of availability of funds by advance appropriation
 - (1) Sums appropriated pursuant to subsection (a) of this section 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 subchapter, appropriations authorized under subsection (a) of this section 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^[2] for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed \$50,000 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.
 - (2) There are authorized to be appropriated to the National Endowment for the Humanities \$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Humanities is responsible, including not to exceed \$50,000 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.
 - (2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed -
 - (A) \$139,878,000 for fiscal year 1986,
 - (B) \$145,057,120 for fiscal year 1987, and
 - (C) \$150,859,405 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

- o (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 954a of this title.
 - o (2) In each fiscal year, the amount made available to carry out section 954a of this title shall not exceed \$40,000,000, in the aggregate.
 - o (3) Funds made available to carry out section 954a of this title shall remain available until expended.
-

Footnotes

[1] See References in Text note below.

[2] So in original. The closing quotation marks probably should not appear.

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CHAPTER 16 THE PERCENT FOR ART ACT

27 § 451. Purpose

Recognizing the need to enhance culture and the arts and to encourage the development of artists, it is the intent of the Legislature to establish the Percent for Art Program to provide funds for and authorize the acquisition of works of art for certain public buildings and public facilities. [1989, c. 912, § 1 (amd).]

Section History:

1979, c. 525 (NEW).

1987, c. 469, § 1, 11 (AMD).

1989, c. 912, § 1 (AMD).

27 § 452. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings. [1979, c. 525 (new).]

1. **Architect.** "Architect" means the person or firm retained by the contracting agency to design the project to which the 1% provision of this chapter applies.

[1979, c. 525 (new).]

2. **Artist.** "Artist" means a practitioner in the arts, generally recognized as a professional by critics and peers, who produces works of art and who is not the architect or an employee of the architectural firm retained by the contracting agency.

[1989, c. 912, § 2 (amd).]

3. **Commission.** "Commission" means the Maine Arts Commission.

[1985, c. 763, Pt. A, § 82 (amd).]

3-A. **Construction.** "Construction" means the construction or renovation of a public building or public facility, the cost of which is at least \$100,000, but does not include repairs or minor alterations. In their rulemaking and decisions regarding construction projects governed

by this Act, the commission shall be guided by the determinations of the Director of the Bureau of Public Improvements.

[1987, c. 469, §2 (new).]

4. Contracting agency.

A. "Contracting agency" means the agency of State Government to which funds have been appropriated or allocated by the Legislature for the construction of any public building or other public facility. In the case of school construction projects, the contracting agency shall be the governance body of the school administrative unit. [1987, c. 469, §3 (amd).]

B. "Contracting agency" does not include municipalities and special purpose quasi-municipal districts such as, but not limited to, sewer districts and water districts. [1979, c. 525 (new).]

[1987, c. 469, §3 (amd).]

5. Public building or public facility. "Public building" or "public facility" means any building or facility which is to be constructed in part or totally with funds from any source appropriated or allocated by the Legislature, including any school construction project approved for state funding by the State Board of Education, and which is intended for the use of the general public.

A. If only part or parts of the building or facility are for the use of the public, "public building" or "public facility" includes only that part or those parts designed for the use of the public. The method of cost allocation to the identifiable part or parts shall be determined by a generally accepted method of cost allocation, provided that the allocated cost for that part or those parts shall exceed \$100,000. [1987, c. 469, §4 (rpr).]

B. "Public building" or "public facility" does not include highways, sheds, warehouses, buildings of a temporary nature. [1987, c. 469, §4 (rpr).]

C. A school construction project or any building or facility which is part of the project is subject to this Act only upon the affirmative vote of the school board of the school administrative unit. [1987, c. 469, §4 (rpr).]

[1987, c. 469, §4 (rpr).]

5-A. School construction project. "School construction project" means a project as defined in Title 20-A, section 15901, subsection 4.

[1987, c. 469, §5 (new).]

6. Works of art. "Works of art" means any of the following original creations of art:

A. Sculpture in any material or combination of materials; [1987, c. 469, §6 (amd).]

B. Painting; [1987, c. 469, §6 (amd).]

C. Graphic arts, printmaking and drawing; [1979, c. 525 (new).]

D. [1987, c. 469, §6 (rp).]

E. Photography, video or electronic media; [1989, c. 912, §3 (amd).]

F. Crafts in clay, fiber and textiles, wood, metal, plastics and other materials; and [1987, c. 469, §6 (amd).]

G. [1987, c. 469, §6 (rp).]

H. Mixed or conceptual media, or any combination of forms or media, including collage. [1989, c. 912, §3 (amd).]

[1989, c. 912, §3 (amd).]

Section History:
1979, c. 525 (NEW).

1985, c. 763, § A82 (AMD).

1987, c. 469, § 2-6,11 (AMD).

1989, c. 912, § 2,3 (AMD).

27 § 453. Expenditure for and location of art

1. Amount; gifts and donations. Any contracting agency, except a school administrative unit, shall expend out of any money appropriated or allocated by the Legislature for the construction of any public building or facility, except for correctional facilities, a minimum amount of 1% of the construction portion of the appropriation or allocation, for the purpose of acquiring, transporting and installing works of art. School units which have decided to participate in the Percent for Art Program shall expend a minimum amount of 1% of the cost of the eligible school construction project or of any building or facility that is part of an eligible project or \$40,000, whichever is less.

Donations and gifts to the contracting agency may be used to offset the minimum amount identified in this subsection. The value of works of art received as a donation or a gift shall be determined by the commission.

A. [1987, c. 469, §7 (rp).]

[1989, c. 912, §4 (amd).]

2. Location of works of art. Works of art may be included as an integral part of the structure of the building or facility, may be attached to the structure or may be detached within or outside of the structure.

[1979, c. 525 (new).]

Section History:
1979, c. 525 (NEW).

1987, c. 469, § 7, 11 (AMD).

1989, c. 912, § 4 (AMD).

27 § 454. Contracts for works of art

For purposes of this chapter, expenditures for works of art shall be contracted for separately from all other items in any original construction of any public building or facility. Contracts shall be made according to section 457. [1979, c. 525 (new).]

Section History:
1979, c. 525 (NEW).

27 § 455. Determination of amount for acquisition of art

The commission, in consultation with the Bureau of General Services, the Department of Education, the Office of Facilities within the University of Maine System or the Maine Technical College System, whichever has budgetary authority over the project, shall determine the minimum amount to be made available for the purchase of art for each public building or facility. [1993, c. 435, §8 (amd).]

Section History:
1979, c. 525 (NEW).

1989, c. 912, § 5 (AMD).

1993, c. 435, § 8 (AMD).

27 § 456. Duties of the contracting agency

Upon selection of an architect for any project, the contracting agency shall: [1979, c. 525 (new).]

1. **Notify.** Notify the architect of this chapter; [1979, c. 525 (new).]
2. **Commission.** Notify the commission of the selection of the architect and the details of the project; [1979, c. 525 (new).]
3. **Consultation.** Consult with the commission about the amount to be expended for works of art; and [1979, c. 525 (new).]
4. **Selection of artist and works of art.** Select the artist and the works of art in accordance with the rules established under section 458, and in consultation with the commission. [1979, c. 525 (new).]

Section History:
1979, c. 525 (NEW).

27 § 457. Duties of commission

The commission shall: [1989, c. 912, §6 (new).]

1. **Consult.** Consult with the architect and contracting agency about any administrative costs or design services required in connection with the selection of works of art;
[1989, c. 912, §6 (rpr).]
2. **Procedures for participation of architect.** Advise the Bureau of General Services, the Department of Education, the Office of Facilities within the University of Maine System and the Maine Technical College System concerning procedures for participation and compensation of the architect in connection with the acquisition of works of art under this chapter;
[1993, c. 435, §9 (amd).]
3. **Contracting agency.** Advise the contracting agency;
[1989, c. 912, §6 (new).]
4. **Selection.** Approve the process used by the contracting agency in selection of the artist or works of art. If the commission does not approve the process used to select the artist or works of art, then the contracting agency shall use another selection process in accordance with the procedure authorized in section 456, subsection 4;
[1989, c. 912, §6 (new).]
5. **Acquisition of art.** Review the design, execution, placement and acceptance of any works of art that are, or are intended to be, acquired under this chapter; and
[1989, c. 912, §6 (new).]
6. **Standards for maintenance.** Adopt standards for the maintenance, conservation, relocation and transfer of ownership of works of art acquired under this chapter.
[1989, c. 912, §6 (new).]

Section History:
1979, c. 525 (NEW).
1989, c. 912, § 6 (RPR).
1993, c. 435, § 9 (AMD).

27 § 458. Rules and regulations

The commission shall establish rules in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 8051, et seq., to carry out the purposes of this chapter. These rules shall include, but not be limited to, the following: [1979, c. 525 (new).]

1. **Selection.** Procedures for the selection of artists and works of art;
[1979, c. 525 (new).]

2. Standards. Standards for the artist and works of art which may be eligible for selection;
[1987, c. 469, §8 (amd).]

2-A. Maintenance. Standards for the maintenance, conservation, relocation and transfer of ownership of works of art acquired under this chapter;

[1989, c. 912, §7 (new).]

3. Contract procedures. Procedures for contracting with artists for works of art ; and

[1989, c. 912, §8 (amd).]

4. Administrative costs. Administrative costs associated with the acquisition of works of art which are eligible to be included as part of the amount allocated in section 453, subsection 1.

[1987, c. 469, §9 (new).]

Section History:

1979, c. 525 (NEW).

1987, c. 469, § 8,9,11 (AMD).

1989, c. 912, § 7,8 (AMD).

27 § 459. Administrative costs

Eligible administrative costs incurred by the contracting agency that are associated with the acquisition of works of art shall be included as part of the amount allocated to section 453, subsection 1, for works of art. [1989, c. 912, §9 (amd).]

Section History:

1979, c. 525 (NEW).

1987, c. 469, § 10, 11 (AMD).

1989, c. 912, § 9 (AMD).

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CHAPTER 5

COMMEMORATIVE DAYS AND WEEKS (HEADING: PL 1977, c. 214, §1 (rpr))

1 § 118. Maine Cultural Heritage Week

The Governor shall annually issue a proclamation setting aside that week containing Statehood Day, March 15th, as Maine Cultural Heritage Week. [1979, c. 294 (new).]

The proclamation shall recall Maine's lengthy and important traditions in all the arts including literature, the performing arts and the plastic arts and shall acknowledge the many contributions made by Maine's citizens to folk arts and crafts. [1979, c. 294 (new).]

The proclamation shall recommend the observance of Maine Cultural Heritage Week with appropriate celebration and activity, including public celebration and activity in Maine's schools, colleges, universities, theaters, museums, studios, galleries and workshops. [1979, c. 294 (new).]

The Maine Arts Commission shall make appropriate information available to the people and the schools within the limits of its budget. [1985, c. 763, Pt. A, § 1 (amd).]

Section History:
1979, c. 294 (NEW).

1985, c. 763, § A1 (AMD).

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CHAPTER 15

THE ARTS (HEADING: PL 1995, c. 264, §2 (rpr))

27 § 408. Maine Student Artist Awards Program

The Maine Arts Commission shall establish the Maine Student Artist Awards Program, which shall recognize and honor outstanding achievement in the arts by the State's students. The awards shall be made during Maine Cultural Heritage Week, as established in Title 1, section 118. [1987, c. 801, §1 (new).]

1. **Eligibility.** Any student in good standing at a public or private secondary school within the State shall be eligible to win an award.

[1987, c. 801, §1 (new).]

2. **Categories.** Awards may be presented in each of the following categories:

A. Literary art, including:

(1) Poetry and writing; [1987, c. 801, §1 (new).]

B. Performing arts, including:

(1) Dance, including:

(a) Ballet, jazz and modern dance;

(2) Music, including:

(a) Classical, contemporary, jazz and folk music; and

(3) Theater arts, including:

(a) Acting, design, directing, mime and puppetry; [1987, c. 801, §1 (new).]

C. Traditional arts, including:

(1) Crafts, humor and music; and

D. Visual art, including:

(1) Crafts, drawing, media, painting, photography, printmaking and sculpture.
[1987, c. 801, §1 (new).]

[1987, c. 801, §1 (new).]

3. Selection procedure. A school may nominate an eligible student for an award in one or more of the categories. The review and selection procedure shall be developed by the commission in conjunction with educators and statewide arts education organizations.

[1987, c. 801, §1 (new).]

4. Staffing assistance. The Maine Arts Commission shall be responsible for implementing all of the policies and procedures for each award, in conjunction with the Office of the Governor and the Commissioner of Education.

[1989, c. 700, Pt. B, §36 (amd).]

Section History:

1987, c. 801, § 1 (NEW).

1989, c. 700, § B36 (AMD).

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CHAPTER 15

THE ARTS (HEADING: PL 1995, c. 264, §2 (rpr))

SUBCHAPTER II

STATE POET LAUREATE (HEADING: PL 1995, c. 264, §3 (new))

27 § 421. Honorary office created

The honorary office of State Poet Laureate is created. [1995, c. 264, §3 (new).]

1. **Appointment.** On March 31st of each year, the Governor shall appoint an individual to serve as State Poet Laureate, selected from the names presented by the advisory panel created in subsection 3.

[1995, c. 264, §3 (new).]

2. **Term.** The State Poet Laureate shall serve a one-year term from March 31st to March 31st of the following year. An individual may serve as State Poet Laureate for no more than 3 consecutive terms, but may be reappointed after a year's break from service.

[1995, c. 264, §3 (new).]

3. **Advisory panel.** The State Poet Laureate Selection Advisory Panel as established in Title 5, section 12004-I, subsection 5-A, referred to in this subchapter as the "panel," is created in accordance with the following provisions.

A. The panel is composed of one representative of the University of Maine System with expertise in poetry, selected by the Board of Trustees of the University of Maine System; one representative of private colleges and universities in the State with expertise in poetry, selected by an association of independent colleges; one public school teacher with expertise in poetry, selected by an association of secondary English teachers in the State; and the director of the Maine State Library and the Director of the Maine Arts Commission, who serve as cochairs. [1995, c. 264, §3 (new).]

B. Each panel member shall annually survey the colleagues the member represents to identify the names of potential candidates to be considered by the full panel for the position of State Poet Laureate. By March 1st of each year, the panel shall select one or more names to recommend to the Governor from which the Governor shall appoint the State Poet Laureate. [1995, c. 264, §3 (new).]

C. If a vacancy occurs within the term of the State Poet Laureate, the panel shall as soon as possible select a nominee for appointment by the Governor to fill the remainder of the term. [1995, c. 264, §3 (new).]

D. Members of the panel are not entitled to per diem or compensation for expenses. [1995, c. 264, §3 (new).]

[1995, c. 264, §3 (new).]

4. Eligibility. The individual appointed State Poet Laureate must be a resident of the State and must have published poems of recognized merit.

[1995, c. 264, §3 (new).]

5. Duties. The duties of the State Poet Laureate are as follows:

A. To provide free consultation on poetry to state educational institutions; and [1995, c. 264, §3 (new).]

B. To write annually at least one poem addressing the beauty, history, heritage or character of the State or the spirit of its people, to be presented to the Governor and the presiding officers of the Legislature by March 15th, Maine Statehood Day. [1995, c. 264, §3 (new).]

[1995, c. 264, §3 (new).]

6. Copyright. The copyright to the poems described in subsection 5, paragraph B must be held by the people of the State. The director of the Maine State Library shall maintain the copyright.

[1995, c. 264, §3 (new).]

Section History:

1995, c. 264, § 3 (NEW).

27 § 422. Public employment permitted

Acceptance of the honor of serving as State Poet Laureate does not constitute state employment and does not preclude an individual from election, appointment or service as an employee or official in state or local government. [1995, c. 264, §3 (new).]

Section History:

1995, c. 264, § 3 (NEW).

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TITLE 27

CHAPTER 2 STATE MUSEUM

SUBCHAPTER II

ACCEPTANCE OF WORKS OF ART FROM ESTATES

27 § 91. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1979, c. 526, § 2 (new).]

1. **Commission.** "Commission" means the Maine State Museum Commission. [1979, c. 526, § 2 (new).]

2. **Work of art.** "Work of art" includes any painting, portrait, mural, decoration, stained glass, statue, tablet, bas-relief, ornament, fountain or other article or structure of a permanent character intended for decoration or commemoration, and any historical material defined in section 86-A. [1979, c. 526, § 2 (new).]

Section History:
1979, c. 526, § 2 (NEW).

27 § 92. Payment of inheritance and estate tax in works of art

A decedent's estate may pay all or part of any tax owed by the decedent's estate to the State by payment in the form of one or more works of art, subject to section 93. An executor, administrator or trustee shall follow the procedure set out in section 93 to make payment in works of art taken from the decedent's estate: [1979, c. 526, § 2 (new).]

1. **Decedent directs.** If the decedent has so directed by a will; or [1979, c. 526, § 2 (new).]

2. Executor, administrator or trustee finds advantage. In the absence of a direction in the decedent's will, if the executor, administrator or trustee finds that this method of payment is advantageous to the estate. [1979, c. 526, § 2 (new).]

Section History:
1979, c. 526, § 2 (NEW).

27 § 93. Procedure for payment in works of art

1. Selection. The executor, administrator or trustee of any estate, desiring to pay all or part of an estate tax or inheritance tax owed the State in one or more works of art, shall notify the commission of his desire to do so. The commission shall, within a reasonable period of time and after consulting with the Maine Arts Commission, notify the executor, administrator or trustee, and the State Tax Assessor, as to whether, in the judgment of the commission, it would be advantageous to the State to accept one or more works of art as payment for the estate or inheritance tax. The commission's decision shall be final and nonappealable.

Acceptance of a work of art is advantageous to the State if its acceptance:

- A. Encourages the preservation of original or noteworthy works of art; [1979, c. 526, § 2 (new).]
- B. Furthers the preservation and understanding of fine arts traditions which have existed in Maine; [1979, c. 526, § 2 (new).]
- C. Furthers the understanding of the fine arts by the people of Maine; or [1979, c. 526, § 2 (new).]
- D. Aids in establishment of important state collections of works of art. [1979, c. 526, § 2 (new).]

[1985, c. 763, Pt. A, § 79 (amd).]

2. Agreement on valuation. If the commission finds that it would be advantageous for the State to accept payment in one or more works of art as payment for the estate or inheritance tax, the commission and the executor, administrator or trustee shall, as a condition of state acceptance of this method of payment, mutually agree in writing on the current market value at the time of the decedent's death of each work of art proposed to be accepted. Upon agreement, the commission shall forward a copy of the proposed valuation to the State Tax Assessor, who shall have 45 days from the date of notification to object to that valuation.

If the State Tax Assessor objects, he shall set forth his objection in writing and forward that objection to the commission and to the executor, administrator or trustee, who may, taking into account the State Tax Assessor's objections, submit a new agreed upon valuation for his approval. If the State Tax Assessor rejects this new valuation within 45 days of its submission, the State shall be deemed not to accept the proposed method of payment in works of art. [1979, c. 526, § 2 (new).]

3. Acceptance. If the State Tax Assessor does not object to a submitted valuation of a work of art within 45 days of its submission, the State shall be deemed to have accepted the work of art as complete or partial payment of the estate or inheritance tax owed, and the commission shall assume title to that work of art as soon as practicable. [1979, c. 526, § 2 (new).]

4. Credit against tax. Upon the assumption of title to a work of art by the commission, the State Tax Assessor shall credit, against the amount owed by the estate, the valuation of that work of art as agreed upon under subsection 2. In no case shall any credit allowed by this subsection be greater than the amount of estate or inheritance tax owed by the decedent's estate. [1979, c. 526, § 2 (new).]

5. Limitation on aggregate value of works of art accepted during one fiscal year. The commission shall not, during any fiscal year, assume title to works of art which have an aggregate value of more than \$100,000, unless:

A. The State Budget Officer, on application from the commission and in extraordinary circumstances, permits the commission to exceed that limit; or [1979, c. 526, § 2 (new).]

B. The commission transfers into the General Fund, not later than the end of the next fiscal year, revenue equalling or exceeding the amount by which the commission has exceeded that limit. [1979, c. 526, § 2 (new).]

[1979, c. 526, § 2 (new).]

Section History:

1979, c. 526, § 2 (NEW).

1985, c. 763, § A79 (AMD).

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CHAPTER 15

THE ARTS (HEADING: PL 1995, c. 264, §2 (rpr))

SUBCHAPTER I-A

ARTS IN EDUCATION PROGRAM (HEADING: PL 1997, c. 762, §1 (new))

27 § 411. Arts in Education Program

The Maine Arts Commission shall establish the Arts in Education Program, referred to in this subchapter as the "program," to provide support for planning and implementing artist residencies and related school and community arts programs to increase arts education opportunities in the State. The program is designed on a 3-year rotating basis. The program allows a public school system to participate by developing a comprehensive arts education plan, activities to implement the plan and an evaluation of the plan. 1997, c. 762, §1 (new).]]

Section History:
1997, c. 762, § 1 (NEW).

27 § 412. Duties of the Maine Arts Commission

To accomplish the goals of the program, the Maine Arts Commission shall: 1997, c. 762, §1 (new).]]

1. **Funding.** Provide funding to 1/3 of the schools in the State each year on a 3-year rotating basis;

[1997, c. 762, §1 (new).]

2. **Professional artists.** Use professional artists in developing a process for achieving learning results;

[1997, c. 762, §1 (new).]

3. **School systems.** Invite school systems, through their superintendents, to participate in the program;

[1997, c. 762, §1 (new).]

4. **Goals.** Work with school systems to identify common education goals;

[1997, c. 762, §1 (new).]

5. **Training; information; seed money.** Provide training, information and seed money to each local arts education committee composed of school personnel and residents of the school district to develop a 3-year plan to increase arts education opportunities; and

[1997, c. 762, §1 (new).]

6. **Curriculum; projects.** Promote artist residencies, professional development for teachers, curriculum development and advocacy and information projects.

[1997, c. 762, §1 (new).]

Section History:

1997, c. 762, § 1 (NEW).

27 § 413. Duties of the school district

Under the program, each participating school district shall: 1997, c. 762, §1 (new).]]

1. **Committee.** Establish a local arts education committee to develop a 3-year plan to increase arts opportunities in the school district. Members of the committee may include teachers, art teachers, parents, art administrators, school administrators, business people, artists, school board members and students;

[1997, c. 762, §1 (new).]

2. **Orientation and training.** Provide for the local arts education committee to participate in orientation and training sessions;

[1997, c. 762, §1 (new).]

3. **Plan.** Implement, evaluate and report to the Maine Arts Commission on the plan; and

[1997, c. 762, §1 (new).]

4. **Resources.** Allocate Maine Arts Commission resources according to a per-pupil cost formula in the first year of the plan.

[1997, c. 762, §1 (new).]

Section History:

1997, c. 762, § 1 (NEW).

PROGRAMS - Introduction

This question is answered in three parts to provide an overview of the programs and services of the Commission. The first is the Commission's recently completed performance budgeting for several accounts (note that for administrative efficiency, the Commission's two general fund programs were combined into one account during the 1999 legislative session.) The second is a narrative description for all state and federal expenditures. The third part encompasses agency goals and successes in meeting goals as outlined in our three-year plan for 1999-2001 submitted to the National Endowment for the Arts (NEA) in October, 1998. This plan is required for Maine to receive NEA funds and provides the overall agency plan for the expenditure of both NEA and general fund amounts. The full text of the plan, "The Partnership Agreement," is enclosed with other attachments in response to question #11. As our report indicates, the Commission completed all goals indicated in the Partnership Agreement. The New Century Program provides funds to the programs with an *.

Maine Arts Commission Performance budgeting, FY01

1. Maine's Citizens will be enriched through participation in the cultural programs and resources of the State of Maine.
2. By the year 2002, increase by 10% the number of citizens who will indicate that they believe that their lives have been enhanced through increased participation in the cultural programs of the State of Maine.
3. Provide leadership and support to develop, strengthen, and extend the state's cultural resources and access to them to all of Maine's people. Performance measures:
 1. \$-value of Percent for Art projects approved.
 2. # of artists participating in Artist Registry, Artist Roster, Individual Artist Fellowship Program, Traditional Artist Apprenticeship Program;
 3. # of arts and cultural organizations benefiting from cultural tourism projects;
 4. # of artists, arts organizations, citizens, and visitors using Maine Arts Commission web site;
 5. \$ value of additional funds brought into Maine from National Endowment for the Arts and other national funders.
4. Provide funding, information and services to support the growth of communities through greater knowledge and use of their cultural resources. Performance measures:
 1. # of successful Partners in Arts and Learning projects in local school districts;
 2. # of successful Professional Development in Arts Education projects;
 4. # of successful Community Arts Development projects in local communities;
 3. # of successful Organizational Development projects for local arts organizations;
 5. # of successful Leadership Initiatives;
5. Provide funding, information and services to support the growth of communities through greater knowledge and use of their cultural resources. Performance measure:

of constituents served through partnerships with other state agencies and non-profit organizations.
6. Provide funding to support the growth of communities through greater knowledge and use of their cultural resources. Performance measures:
 1. # of successful Partners in Arts and Learning projects in local school districts.
 2. # of successful Professional Development in Arts Education projects.
 4. # of successful Community Arts Development projects in local communities.
 3. # of successful Organizational Development projects for local arts organizations.
 5. # of successful Leadership Initiatives.

Maine Arts Commission Performance budgeting, FY99 baseline figures

Arts Administration: Provision of services to Maine communities, schools, and arts organizations including technical assistance, information services, and resource acquisition.

1. \$-value of Percent for Art projects approved: \$213,822;
2. # of artists participating in Artist Registry, Artist Roster, Individual Artist Fellowship Program, & Traditional Artist Apprenticeship Program: 1193;
3. # of arts and cultural organizations benefiting from cultural tourism projects: 30;
4. # of artists, arts organizations, citizens, and visitors using Maine Arts Commission web site: 18,958;
5. \$ value of additional funds brought into Maine from National Endowment for the Arts and other national funders \$476,000.

Arts Sponsored Programs: Provision of services, as above, with funding to carry out community, school, or organizational projects in the arts.

1. # of successful Partners in Arts and Learning projects in local school districts: 36
2. # of successful Professional Development in Arts Education projects: 11
4. # of successful Community Arts Development projects in local communities: 12
3. # of successful Organizational Development projects for local arts organizations: 20
5. # of successful Leadership Initiatives: 6

Arts Discipline Grants: Provision of funding to carry out community, school, or organizational projects in the arts.

of constituents served through partnerships with other state agencies and non-profit organizations: 283,782 individuals benefiting from funded grants

General Grants: Provision of funding to carry out community, school, or organizational projects in the arts.

1. # of successful Partners in Arts and Learning projects in local school districts: 36
2. # of successful Professional Development in Arts Education projects: 11
4. # of successful Community Arts Development projects in local communities: 12
3. # of successful Organizational Development projects for local arts organizations: 20
5. # of successful Leadership Initiatives: 6

Maine Arts Commission Performance budgeting, FY00, FY01 projections

Arts Administration: Provision of services to Maine communities, schools, and arts organizations including technical assistance, information services, and resource acquisition.

1. \$-value of Percent for Art projects approved: FY00: \$300,000; FY 01: \$300,000
2. # of artists participating in Artist Registry, Artist Roster, Individual Artist Fellowship Program, Traditional Artist Apprenticeship Program: FY00; 1200; FY 01; 1220;
3. # of arts and cultural organizations benefiting from cultural tourism projects: FY00: 40; FY 01: 50
4. # of artists, arts organizations, citizens, and visitors using Maine Arts Commission web site: FY00: 20,000; FY 01: 25,000
5. \$ value of additional funds brought into Maine from National Endowment for the Arts and other national funders: FY00: \$480,000; FY 01: \$500,000

Arts Sponsored Programs: Provision of services, as above, with funding to carry out community, school, or organizational projects in the arts.

1. # of successful Partners in Arts and Learning projects in local school districts: FY00: 18; FY 01: 28
2. # of successful Professional Development in Arts Education projects: FY00: 12; FY 01: 12
3. # of successful Community Arts Development projects in local communities: FY00: 12; FY 01: 12
4. # of successful Organizational Development projects for local arts organizations: FY00: 20; FY 01: 20
5. # of successful Leadership Initiatives: FY00: 4; FY 01: 4

Arts Discipline Grants: Provision of funding to carry out community, school, or organizational projects in the arts.

of constituents served through partnerships with other state agencies and non-profit organizations: FY00: 300,000; FY 01: 300,000

General Grants: Provision of funding to carry out community, school, or organizational projects in the arts.

1. # of successful Partners in Arts and Learning projects in local school districts: FY00: 18; FY 01: 28
2. # of successful Professional Development in Arts Education projects: FY00: 12; FY 01: 12
3. # of successful Community Arts Development projects in local communities: FY00: 12; FY 01: 12
4. # of successful Organizational Development projects for local arts organizations: FY00: 20; FY 01: 20
5. # of successful Leadership Initiatives: FY00: 4; FY 01: 4

PROGRAMS – Description

Arts Industry Development

Leadership Initiatives* are substantial grants of up to \$25,000 for programs of statewide significance or for programs which create models which are replicable for other organizations. Examples include funding for the planning to create PATHS (Portland Arts & Technology High School), a grant to allow the Maine Alliance for Arts Education to regionalize to better serve arts education needs in the state, and funding to develop a pilot Arts & Heritage Tourism Project to attract visitors to the state's arts museums.

Organizational Development grants are small grants of up to \$2,000 with quick turn-around review to assist arts organizations with strategic needs such as marketing and fund raising plans, board development, and strategic planning.

Cultural Tourism provides for a collaborative program with the Maine Arts Commission, the Maine Office of Tourism, the Maine Humanities Council, and the Maine Historic Preservation Commission. Small grants are awarded to assist local organizations develop cultural tourism projects such as guides to local resources and training about local resources in order for service industries to better serve the questions of the visitor.

Arts in Education

Partners in Arts and Learning provides grants to one third of the state each year for district wide arts education programs involving artists-in-residence and other programs to further develop the arts. This program replaced an earlier arts in education program since our evaluation showed that only parts of Maine were being served. The Legislature provided additional dollars for this program in 1998.

Professional Development in Arts Education provides for training of teachers, school administrators, artists and community liaisons. The goal is to increase arts education opportunities for all children. The Legislature provided additional funds for this program in 1998.

Special Projects provide funds for small grants to encourage partnerships for, among other examples, youth at risk. Through this program the Commission has been able to develop partnerships with the juvenile justice field and the Office of Substance Abuse.

Contemporary Arts

Individual Artist Fellowships provide awards to exemplary Maine artists.

Arts in the Capitol provides exhibitions and special programs funding Maine artists. Sites include the Governor's Gallery, the Blaine House and the Maine Arts Commission office.

Contemporary Arts Development* is a developing program being designed during 1999-2000 to serve artists' aesthetic, business, and marketing needs. The program is based on a yearlong study including a survey sent to 5000 artists in Maine.

Maine Touring Artists Program* Due to funding constraints, fee support for artists and performing institutions to all of Maine was eliminated in 1996. With the help of the New Century Program, we will work with private sponsors such as the Maine Performing Arts Network and Maine Arts, Inc. to re-establish the program.

*\$512 m / 20 yrs
1000 works
60% pub sch*

Percent for Art is a separate state law which allocates 1% of the construction costs of public buildings for the commission or purchase of works of public art. Elementary and secondary schools participate at their option. The program allocation is normally \$250,000-300,000 per year, but will increase this year and next due to the State House and State Office Building renovations. Although Percent for Art funds do not flow through the agency's account, we include the allocations in the agency budget summary page.

*200-400 per
com. # - not
in MHC
budget*

Community Arts Development

- most NCP # here

Discovery Research* provides resources for communities to assess their cultural resources. Folklorists work with the program to assure that a broad range of the arts is covered.

Local Cultural Initiatives* provide for funding of the results of Discovery Research to support projects that emanate from local cultural planning.

Maine Arts Commission/Maine Humanities Council* is a program supported by New Century Program funding to have a joint arts and heritage program. It is a coordinated program whereby one application is submitted to a joint review committee of both organizations.

Traditional Arts Apprenticeships provide resources for master folk and traditional artists to train apprentices in order to carry on important traditions such as Native American basket making and Franco American fiddling.

Information and Communications * provides for a host of information needs including agency publications, web site development, and partnerships with non-government agencies to improve technological services. Through this program, the Commission provides resources for research and special funding for an arts millennium project*.

PROGRAMS – Success in meeting goals

The information below indicates the outcomes achieved in the stated goals from the 1998 Partnership Agreement proposal, but they only tell part of the story. Since submission of the 1998 Partnership Agreement, the Commission has continued the process of moving from a “grant reactive” agency to one which utilizes the arts to build community and assists in building coalitions among arts, artists and nonarts interests. 1998-99 accomplishments include:

- Implementation of and secured funding for a newly designed arts in education program.
- Expanded support for youth at risk programs from the Office of Substance Abuse and the juvenile justice field.
- Establishment of a millennium community-building three-year dance project with the Dance Exchange, including a first ever, performing project with the Passamaquoddy Nation.
- Adoption in June 1999 and the beginning of implementation of a new program of assistance for individual artists. The Arts Extension Service, with principals Craig Dreeszen and Pam Korza, assisted in the planning and continue in the implementation.
- Development of a process to strengthen all the statewide arts service organizations and to achieve outcomes from shared goals.
- Initiated steps to research a financial stabilization effort for Maine arts institutions.
- Increased multi-cultural agency collaborations by developing the “Maine Communities in the New Century Program,” an inter-agency initiative involving the Maine Arts Commission, the Maine Historic Preservation Commission, the Maine State Library, the Maine State Museum, the Maine State Archives, the Maine Humanities Council, and the Maine Historical Society, which secured \$3.2 million for the preservation, education, elucidation, and celebration of Maine’s arts and heritage. We believe this is the first such effort of its kind in the country.

Since the Maine Arts Commission redesigned the agency as indicated in “1996 and Beyond,” and described in our 1996 Partnership Agreement application, we truly have not only completely changed the agency, which was only an idea in 1996, but also have garnered the resources to expand support for the new program designs.

Outcomes and Accomplishments

Leadership Initiatives

Goal: To respond to needs and opportunities by strategically intervening with projects and funding directed at long term capacity building at the state and local levels.

Leadership Initiatives are projects that have statewide merit, may be replicated by other communities or organizations, and may be models for use in related arts fields. Leadership Initiatives have been successful in reaching the goals of the program as developed in the latest long range plan. For example, Maine Alliance for Arts Education (MAAE) found through membership surveys that interest in the statewide organization had decreased due to poor communications and a perceived irrelevance of state-level advocacy to local needs. After holding a number of focus groups, MAAE members realized it was best to regionalize the organization. MAAE received a Leadership Initiative grant of \$20,000 from the Commission to restructure and to establish field offices in Aroostook County (northern Maine) and Bangor (central Maine). The

initiative has been remarkably successful. A conference in Bangor in March 1997 drew over 500 parents, teachers, artists, and local supporters from eleven school districts to discuss ways to improve arts education. The network created by the field offices was pivotal in garnering support in key legislative districts for the Commission's Arts in Education request last year. The Bangor office is already financially self-sustaining, and other areas, such as Hancock County, are finding outside resources to establish additional regional offices.

A second Leadership Initiative grant of \$20,000 was awarded to the Portland School Department to plan for The Arts Academy at Portland Arts and Technology High School (PATHS), a regional school for the performing and visual arts. For two years the Commission had worked with the Friends of the Maine Center for Arts Education, a nonprofit group that sought legislative support to create a high school for the arts. Legislation to create the school passed, but was not funded, thus the Friends committee worked closely with Portland to find an alternative. The solution was to use existing vocational system facilities and transportation mechanisms currently serving twenty-three school districts in southern Maine. The plan coordinates PATHS with cultural institutions and other training programs in greater Portland.

The Commission has become much more involved with arts and heritage tourism, and during the course of the last two years, has built substantial relationships with a number of other organizations. Maine Humanities Council, Maine Office of Tourism, Maine Arts Commission and Maine Historic Preservation Commission jointly fund a number of projects to improve arts and heritage tourism in Maine. Examples include: an information guide and training program for local businesses to better serve the Acadian French region of the St. John Valley along the northern Maine-Canadian border; a Wabanaki Trail guide to make available Maine Indian Tribal resources; and *Come See What's Cooking in Hancock County*, a project that links local organic farms and the restaurants that serve their produce with arts organizations, artist studios, and cultural events. Arts and heritage tourism staff have attended the Chicago conference this past spring, overseen the Commission's Arts & Heritage Tourism Task Force (with membership from all arts disciplines), and are currently developing both Maine Museum and Maine Music Trails. The program was also instrumental in receiving a grant of \$50,000 from Institute of Museum and Library Services to document and promote museums in order to increase their visitation. The project was the only fully funded IMLS grant in the country during that granting cycle.

Traditional and ethnic arts have been well served in the past by the Commission's Initiatives, particularly those supporting the ability of traditional communities to preserve and expand their own cultural heritage. New projects that build local capacity in these communities are necessary to assure their long-term success. For example, the Wabanaki Trail project is an outgrowth of our work with Maine's Native Americans, especially the Traditional Arts Apprenticeship Program and the development of the state's only inter-tribal cultural organization, the Maine Indian Basketmakers Alliance. The trail project is the first time that the four tribes – Penobscot, Passamaquoddy, Micmac, and Maliseet – have worked together to plan a comprehensive program to promote their rich cultural traditions. The Generations Project, (see attached booklet) funded by a National Endowment for the Arts Heritage and Preservation grant, documented traditional arts and provided mentoring training to members of the Native American, Franco-American and Southeast-Asian communities.

The Commission has stimulated the creation of local arts agencies in Bangor, Brunswick, Lewiston/Auburn and Portland, and has created interest in other areas (Aroostook County, Bath, Hancock County, Waterville). Representatives of local arts agencies in Maine's three urban areas (Portland Arts and Cultural Alliance, LA Arts, and the Bangor Arts Council) contacted us regarding our commitment to further local arts agency development. We provided \$20,000 for a project to identify needs and the appropriate types of support for us to offer. The project resulted in increased marketing for all three groups, better connections with arts and education, and increased support from local governments.

Audience and Constituency Development

Goal: To provide for the long-term development of educated and appreciative audiences and capable artists.

Arts in Education - In our proposal in 1996, we stated that the Commission would "examine a new format for distributing arts education funds and programs ... education programs will be combined into a single program focusing and bringing direct meaningful experience to arts activity for K-12 public school children in targeted areas of the state." The pilot sites in the last two years have been in central Hancock County, Aroostook County, Waldo and southern Piscataquis and Penobscot Counties, Rangeley, and Lewiston/Auburn. The pilot sites have been so successful that they have led to the allocation of \$450,000 in new state funding for Arts in Education over the next biennium.

Percent for Art - The Percent for Art program, a model state-local funding and decision-making partnership, resulted in commissions totaling \$442,000 over the last biennium. That sum will increase by \$400,000 over the next biennium, due to State House and State Office Building renovations, which will involve direct participation by the Legislature and the Executive Departments. Through staff technical assistance, state-funded buildings, including public schools, are enhanced by works of art for the enjoyment and edification of the public at large. In 1999, the Commission will publish a 20th anniversary catalogue documenting the program, to increase its visibility and for use as an advocacy tool.

Fellowships - The Commission has continued and expanded its fellowship program and has cited support for individual artists as a priority. It has also continued its traditional arts apprenticeship program, which provides resources to master artists to train apprentices in the traditional arts. The majority of awards are for the Native American community and the Franco-American community. Significantly, First Lady Mary J. Herman presents the Commission's fellowship and traditional arts awards each year at the Governor's home, the Blaine House. The event has been so successful that it is now scheduled for warmer months in the garden of the Blaine House to serve more people, better sight lines, and the press.

Advocacy - The Commission has increased its advocacy efforts both with its own members and with representatives from the field. Commission members are given assignments to contact legislators and to ask others in their regions to do the same. The Commission also collaborates with many other partners and has the strongest links to our statewide presenting and artists service groups, especially Maine Alliance for Arts Education, Maine Arts Sponsors Association, and Very Special Arts Maine. As previously stated, the Commission has formalized its

information and advocacy structure by having separate sub-committees for each area, has secured the services of a volunteer lobbyist, has sought and received legislative sponsorship from the highest levels of legislative leadership, the Education and Cultural Affairs Committee and the Appropriations Committee. In the second year of the plan, we developed an advocacy matrix – an expanded email and list-serve project – to improve advocacy for the future. The Commission’s advocacy is not simply for legislative initiatives but for ongoing education of local and state elected officials, particularly when state officials are not in legislative session.

Development of Cultural Communities through the Arts

Goal: To enhance the growth of geographic and cultural communities through assessment, planning, and development of cultural resources at the local level.

Community Cultural Planning - The Commission continues to support cultural assessment and planning in communities throughout Maine. Our support stimulates community awareness and participation in the arts, encourages local government recognition and commitment, and develops broad-based planning activities to encourage arts activities on a local level. In the previous grant period the Commission has successfully funded Discovery Research Projects in Aroostook County, Hancock County, Rangeley, Lewiston/Auburn, Brunswick, Bath, North Edgecomb, Portland, and Waterville. Funding for Local Cultural Initiatives followed in several of the regions, resulting in the publication of local cultural directories and support for events like Brunswick’s Family Arts Festival, which engaged approximately 1,000 residents and 60 artists in a day-long celebration of performance and participatory art-making.

Technical Assistance - This program provides assistance and funding for strategic development projects to communities, arts organizations, artists’ groups, and schools. Examples of projects funded in the first two years of the program are: professional development conferences, facilities feasibility studies, nonprofit board training, programs to create leadership opportunities for people with disabilities, and artist involvement in disaster relief following the ice storms of January 1998. To strengthen and clarify the purpose of the program, the Commission recently voted to increase funding levels and to rename it Organizational Development.

Traditional Arts Apprenticeships - The Apprenticeship program provides direct support to those master artists who are actively passing on their culture to the younger generation. The program continues with level state funding, augmented each year by funding from other public and private sources.

Information & Communications

Goal: To develop and disseminate cultural information through the use of accessible communications technology, for use by the arts field and the general public.

Maine Artists Roster - The Maine Artist Roster combines touring and arts in education rosters, Artist Registry rosters, and other information in one publication designed to assist the public in locating and engaging artists. The Commission juries artists and publishes the Roster as a resource for schools, communities, and businesses. In addition, the Commission retains artists’ portfolio files and a slide-based Artist Registry. Roster use has increased due to recent increases in funding for

Arts in Education programs, and due to an increase in Percent for Art projects in state and local school buildings.

Maine Arts Commission World Wide Web page - The Maine Arts Commission established its award-winning web site in August 1997. It currently receives 3,000 users (30,000 hits) per month. Constituents are delighted to be able to download guidelines and forms instantaneously, to get current information from the opportunities section, and to use its links to local and national sources of information. When the database project mentioned below is completed, on-line users will be able to find and contact every cultural organization in the state using Maine Arts Commission's web site. We have recently selected a new provider who has written software that will allow each organization to monitor its own records on the site. We hope to offer this service to individual artists by the end of 1999.

Database Project - The Commission has developed an extensive list of over 1,600 profit and nonprofit arts organizations. Each will be asked a series of detailed questions about the organization's operations, history, and programming. Calls have been completed for the fields of theater and dance; the rest of the project will be completed during the current fiscal year. This master resource will be placed on the web site, will be linked to Maine's tourism home page, and, over time, will be augmented by the even more detailed Discovery Research assessments. The database project should have enormous application for arts organizations and for users within and beyond Maine's borders.

ORGANIZATIONAL CHART

GOVERNOR

CHAIR AND COMMISSION MEMBERS
MAINE ARTS COMMISSION

DIRECTOR

ASSISTANT DIRECTOR

ASSOCIATE
ARTS IN
EDUCATION

ASSOCIATE
PERFORMING
ARTS

ASSOCIATE
CONTEMPORARY
ARTS

ADMINISTRATIVE
SECRETARY

ASSOCIATE
TRADITIONAL &
COMMUNITY ARTS

ASSOCIATE
PERCENT FOR
ART

CLERK TYPIST II

Maine Arts Commission

Position Count

Employee	Title	State Classification	Class #	Step
Alden C. Wilson	Director	Director	88	9
Peter Simmons	Assistant Director	Assistant Director	29	8
Nancy Salmon	Arts in Education Associate	Arts & Humanities Associate	24	8
Kathy Ann Jones	Associate for Contemporary Arts	Arts & Humanities Associate	24	8
David Cadigan	Research & Special Projects Associate	Arts & Humanities Associate	24	8
Kathleen Mundell	Associate for Traditional & Community Arts	Arts & Humanities Associate	24	8
Paul Faria	Public Art Associate	Arts & Humanities Associate	24	8
Janice Poulin	Information Manager	Administrative Secretary	16	8
Lisa Veilleux	Secretary/Receptionist	Clerk Typist II	8	3

COMPLIANCES

The Maine Arts Commission is a state agency that receives tax money appropriated by the Maine State Legislature. In addition, the Agency receives funds from the National Endowment for the Arts and other federal sources. Therefore, the Commission and Commission grant recipients are contractually committed to abide by state and federal regulations that bar discrimination based on race, color, national origin, disability, age, or sex and that require accessibility for persons with disabilities. In addition, grantees must ensure appropriate management of funds and personnel as required by the federal government. The Maine Arts Commission also requires grantees to observe the Commission's conflict of interest policy, which is based on Maine statute, as well as to follow an established appeals process when disputing a grant decision.

Civil Rights

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance (Section 601).

Title IX of the Education Amendments of 1972 provides that no person in the United States shall, on the basis of sex, be subject to discrimination under any educational program or activity receiving federal financial assistance.

The Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program receiving federal assistance.

People with Disabilities

Disability is defined as anyone who has a physical or mental impairment which substantially limits one or more of such persons major life activities, has a record of such impairment, or is regarded as having such impairment.

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified person with a disability in the United States, as defined in Section 7(6), shall, solely by reason of his or her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal assistance.

The Americans with Disabilities Act of 1991 extends protections of the Civil Rights Act of 1964 by prohibiting discrimination in employment based on disability, requiring places of public accommodation be accessible to people with disabilities, mandating gradual replacement of buses and railroad cars with equipment that can accommodate people with disabilities, and making telephone services available to people with hearing and speech impairments, nationwide.

Drug Free Workplace

The Drug Free Workplace Act of 1988 requires that employees of the grantee not engage in the unlawful manufacture, dispensation, possession, or use of controlled substances in the grantee's workplace or work site.

Management and Use of Funds

Section 5(j) and 5(k) of the U.S. Public Law 89-209 requires compliance in regard to the employment of professional personnel, mechanics, and laborers employed for any construction project, and to the health, safety and sanitary laws of the state.

18 U.S.C. Sec. 1913 regulates lobbying with appropriated moneys, and the Hatch Act (5 U.S.C. Sec. 1501-1508 and 7324-7328) limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

An adequate financial management system must be maintained to provide efficient and effective accountability and control of all property, funds and assets, in compliance with OMB Circulars A-102, A-128 (for local governments) and A-110 (for non-profit organizations and universities)

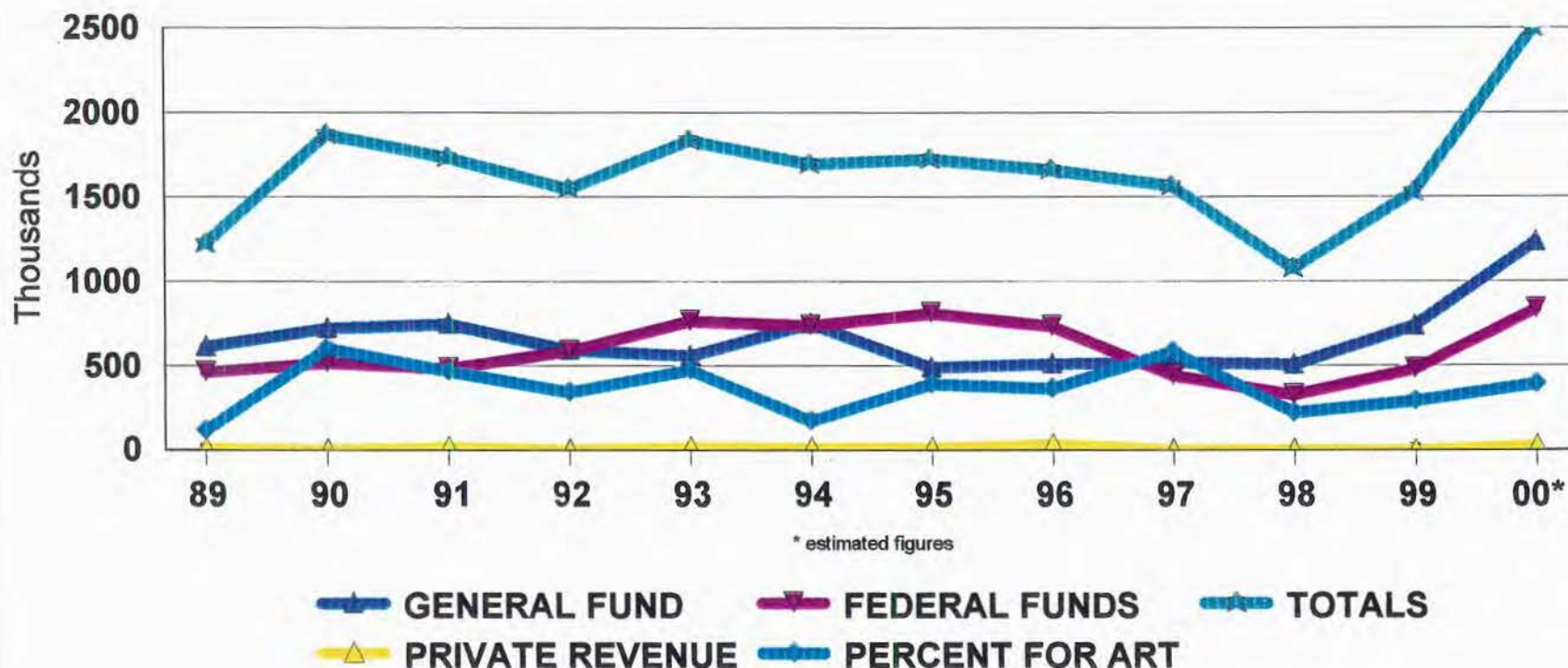
Conflict of Interest Policy

No member of the Commission, advisory panels or juries, or agency staff, or any spouse or dependent children of such individuals, on behalf of themselves or with respect to an organization with which they are employed as staff or consultant, or affiliated with as members of the governing board(s) or in which they have a direct and substantial financial interest shall submit or sponsor applications or proposals for agency funds, or seek to influence the decisions of members of the Commission, advisory panels or juries, or staff regarding applications for agency funds, or receive, accept, take, seek or solicit directly or indirectly, gifts, gratuities, favors, or anything of economic value from any person or organization if there is any reason to believe the donor would not give said item except for that individual's office or responsibility with the agency, or to unduly influence that individual's action on applications for agency funds. No member of the agency staff shall participate in their official capacities in any proceedings which may fund or otherwise support individuals or organizations with whom the staff members are employed or are negotiating with for future employment, or organizations for which the staff members serve on the governing board.

Grant Appeals Policy

Any grant applicant shall have the opportunity to appeal a grant decision by submitting, in writing, an appeal to the Chair of the Commission within 30 days of notification of the grant decision. An appeal shall be made only on the basis of the procedure taken by the advisory panel, jury or director in reviewing the application, and not on the artistic, management, or other evaluations based on the grant review criteria.

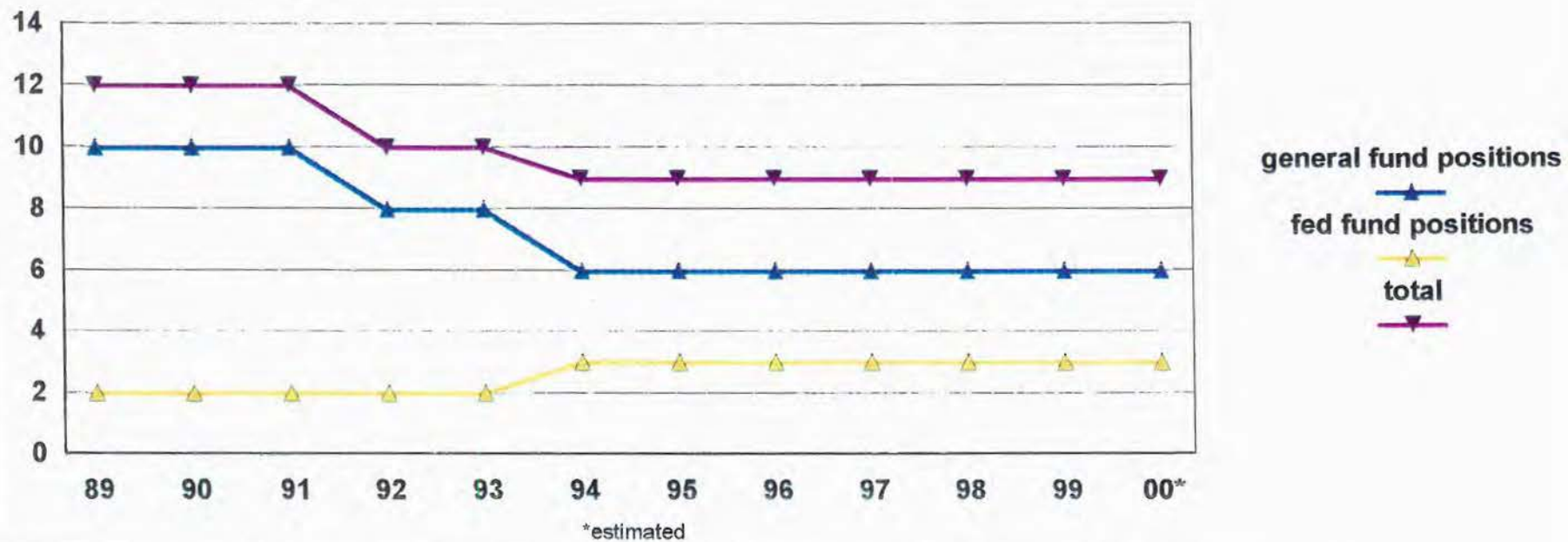
Maine Arts Commission - Expenditures



Expenditures

	89	90	91	92	93	94	95	96	97	98	99	00*
GENERAL FUND	622,647	732,383	754,469	601,690	568,617	760,747	497,117	516,908	527,485	515,532	744,736	1,239,557
PRIVATE REVENUE	11,549	5,074	19,159	6,950	17,500	16,974	14,248	37,961	4,614	5,811	2,021	28,068
PERCENT FOR ART	124,300	612,100	476,900	351,700	485,300	178,800	400,400	371,100	592,245	229,300	299,822	400,000
FEDERAL FUNDS	470,641	525,777	490,815	594,697	771,755	745,555	819,488	742,892	449,291	334,630	488,390	842,284
TOTALS	1,229,137	1,875,334	1,741,343	1,555,037	1,843,172	1,702,076	1,731,253	1,668,861	1,573,635	1,085,273	1,534,969	2,509,909

Maine Arts Commission - Positions



	89	90	91	92	93	94	95	96	97	98	99	00*
general fund positions	10	10	10	8	8	6	6	6	6	6	6	6
fed fund positions	2	2	2	2	2	3	3	3	3	3	3	3
total	12	12	12	10	10	9	9	9	9	9	9	9

*estimated

94-088 MAINE ARTS COMMISSION

Chapter 2 RULES FOR AWARDING GRANTS AND PROVIDING SERVICES

SUMMARY: This chapter outlines the procedures and standards governing grant-making and services offered by the Maine Arts Commission.

1. Provisions for awarding grants and providing services.

A. DEFINITIONS

1. **Advisory Panels:** "Advisory Panels" shall mean volunteer members of the arts and arts-related communities, who may be in- or out-of-state residents, including arts practitioners, presenters and administrators, and who represent either peer-status of organizations or individuals applying for grants, or expertise in a particular arts or administrative field. Advisory panelists shall be nominated by the Panels, the Commission, Director or the public, and are appointed by the Chair of the Commission upon advice of the Nominating Committee. Advisory panels shall be administered by the Director and shall make recommendations to the Commission with regard to grant applications and other Agency projects. Advisory panels may be standing or ad-hoc. Some panel functions may be accomplished by the use of a review jury.

2. **Agency:** "Agency" shall mean, and may be inter-changed with, the Maine Arts Commission, and shall include Commission members, the Director and staff, advisory panelists, and the structure and programs administered by the Maine Arts Commission.

3. **Artist:** "Artist" shall mean an individual who may be trained in, and practice, an art form as a creator, performer, director or tradition bearer in one or more, but not limited to, the arts disciplines of dance, design arts, literature, media arts, music, theater, traditional arts, and visual arts, and may satisfy some or all of the following criteria:

- (a) receives, or has received, remuneration for works, notably in the form of sales, royalties, commissions, fees, residuals, grants, and awards that can reasonably be considered an integral part of the income that the artist earns from arts activity, or
- (b) receives recognition from the public or peers, notably honorable mentions, awards, or critical attention in the media for the work, or
- (c) presents works to the public through exhibitions, performances, readings, showings or any other means corresponding to the nature of the works, or
- (d) is represented by, or contracts with, a dealer, publisher, agent, producer, or similar representative, depending on the nature of the work, or
- (e) devotes a reasonable percentage of time or effort promoting and marketing works, attending auditions, seeking patrons or agents, and other similar efforts, depending on the nature of the work.

4. **Arts:** "Arts" shall mean any activity undertaken by arts organizations or individual artists, involved with, but not limited to, the disciplines of arts in education, community arts, dance, design arts, literature, media arts, museums, music, performance arts, theater, traditional arts, and visual arts.

5. Commission: "Commission" shall mean the volunteer policy and decision-making Board of the Agency, whose members are appointed by the Governor.

6. Committee: "Committee" shall mean members of the Commission who represent the full Commission in creating policy in areas including, but not limited to, planning, evaluation, nominating, and grant review. Committees may be standing or ad-hoc.

7. Director: "Director" shall mean the paid chief executive officer of the Maine Arts Commission charged with carrying out the activities of the Agency, to whom all Agency staff are responsible.

8. Statewide Arts Service Organizations: "Statewide Arts Service Organizations" shall mean any discipline-based, non-profit, arts organizations which provides statewide services to its membership and/or general public. Service organizations may serve, but are not limited to serving, the disciplines of arts in education, community arts, dance, design arts, literature, media arts, museums, music, performance arts, theater, traditional arts and visual arts.

B. AWARDING OF GRANTS

The Maine Arts Commission may make grant funds available to eligible arts non-profit organizations, arts service organizations, educational organizations engaged in arts programming, units of government, other organizations engaged in arts programming and individuals.

Grant awards may carry a matching component based on, but not limited to cash or services.

1. Eligibility: Organizations or individuals shall meet the following eligibility requirements before applying for a grant:

(a) an individual shall

(i) be an artist or arts administrator, and

(ii) be a legal Maine resident,

(aa) required to file Maine State income tax, and

(bb) have resided in Maine for at least 183 of the past 365 days, and

(iii) be eighteen years or older, and

(iv) be subject to the Conflict of Interest rules of Section C below.

(b) an organization shall

(i) be a not-for-profit organization, legally established in the State of Maine, and

(aa) have tax-exempt status (501)(c) from the Internal Revenue Service, or

(bb) be a unit of local, county or state government, or

(ii) be a regional, national, or international arts service organization including, but not limited to, the New England Foundation for the Arts and the National Assembly of State Arts Agencies.

2. Grant Application: Individuals or organizations eligible for grant funding shall make application with the Agency as follows:

- (a) an individual or organization shall complete the appropriate application form obtained from the Director, and
- (b) an individual or organization shall provide additional application materials and/or provide for a site visit from an advisory panelist if requested, and
- (c) an individual or organization may consult the Director with regard to the application, and the program/project it is meant to fund.

3. Application Review: All Agency grant programs shall be reviewed in accordance with an established timeline and may be reviewed competitively.

The grant review process shall be outlined in Agency publications which are made broadly available to the public.

Grant applications may be reviewed by:

- (a) a standing or ad-hoc advisory panel, or
- (b) a jury, or
- (c) a reader, or
- (d) the Director

utilizing a set of artistic and/or management criteria outlined by the specific grant program, including but not limited to:

- (i) artistic merit of the individual or project,
- (ii) responsible financial and organizational management,
- (iii) ability to provide for the grant match as requested,
- (iv) degree of community involvement, or
- (v) ability to serve special constituencies.

A panel, jury or reader, upon reviewing grant applications, shall make a recommendation to the Commission for final grant approval. The Director, upon reviewing grant applications, shall have authority to make final grant approval. The Director shall be responsible for preparing a record of all grant review procedures to be made available to the public.

4. Grant Award Approval: Final decisions on grant awards shall be determined by:

- (a) the Director, or
- (b) the Commission.

5. **Appeal Process:** Any grant applicant shall have the opportunity to appeal a grant decision by submitting an appeal in writing to the Chair of the Commission within thirty days of notification of the grant decision.

An appeal shall be made only on the basis of the procedure taken by the advisory panel, jury or Director in reviewing the application, and not on the artistic, management or other evaluations, based on grant review criteria, made by the advisory panel, jury or Director.

The Director shall be responsible for presenting appropriate materials regarding the appeal to the Grant Review Committee of the Commission.

The Grant Review Committee

- (a) shall review the appeal and written material provided by the appellant or the Director, and
- (b) may hear the appellant's case in person, and
- (c) shall make a recommendation to the Commission Chair.

The Chair of the Commission shall consider the recommendation of the Grant Review Committee, and shall make all final decisions regarding appeals. A decision made in favor of the appellant may result in the awarding of grant funds.

6. **Responsibilities of the Grantee:** Once a grant award is made, the grantee shall be responsible for the following:

- (a) using the awarded funds only for the specific program or project applied for, and
- (b) signing and returning the Letter of Agreement in accordance with the grant letter, and
- (c) complying with all required federal and state regulations in accordance with the grant letter, including but not limited to the following:
 - (i) assurance that the grantee and any organization assisted by it will comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 as amended, Title IX of the Education Amendments of 1972, and The Age Discrimination Act of 1975, all of which bar discrimination in federally assisted projects on the basis of race, color, national origin, age, handicap or sex, and
 - (ii) assurance that the grantee will comply with the Americans with Disabilities Act (ADA) of 1991 which guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications, and
 - (iii) assurance that the grantee will comply with the Drug-Free Workplace Act of 1988, and
 - (iv) assurance that the grantee and any organization assisted by it will comply with sections 5(j) and 5(k) of U.S. Public Law 89-209 in regard to the employment of professional personnel, mechanics and labors employed for any construction project and the health, safety and sanitary laws of the state, available to the U.S. Secretary of Labor upon request, and

- (v) compliance with 18 U.S.C. Sec. 1913 regulating lobbying with appropriated monies and with the Hatch Act (5 U.S.C. Sec. 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds, and
- (vi) assurance that the grantee will maintain an adequate financial management system to provide efficient and effective accountability and control of all property, funds and assets in compliance with OMB Circulars A-102, A-128 (for local governments) and A-110 (for nonprofit organizations and universities), and
- (d) utilizing the proper credit line on all materials related to the program/project for which funding is awarded to read: "This program/project is supported, in part, by the Maine Arts Commission, a state agency supported by public tax dollars," and
- (e) submitting a final report within thirty days after the conclusion of the grant period, in accordance with the grant letter; failure to do so will make the applicant ineligible to apply or receive future Agency funds until submitted.

C. CONFLICT OF INTEREST

In accordance with the above or any other requirement of state law, members of the Commission, advisory panels or juries, and staff have the responsibility to avoid direct and indirect private interest which is at variance with the impartial performance of their public duty. Members also have responsibility to avoid the appearance of a conflict of interest by disclosure or by abstention. At the same time, since members of the Commission, advisory panels or juries, and staff have keen interest in the arts and in arts organizations in the state, they should not disqualify themselves from either ongoing participation in the arts and arts organizations of their choice, or from general policy-making discussions and decisions which carry out the statewide obligations of the Agency.

1. No member of the Commission, advisory panels or juries, or Agency staff, or any spouse or dependent children of such individuals, on behalf of themselves or with respect to an organization with which they are employed as staff or consultant, or affiliated with as members of the governing board(s) or in which they have a direct and substantial financial interest shall:

- (a) submit or sponsor applications or proposals for, Agency funds, or
- (b) seek to influence the decisions of members of the Commission, advisory panels or juries, or staff regarding applications for Agency funds, or
- (c) receive, accept, take, seek or solicit directly or indirectly, gifts, gratuities, favors, or anything of economic value from any person or organizations if there is any reason to believe the donor would not give said item except for that individual's office or responsibility with the Agency, or to unduly influence that individual's action on applications for Agency funds.

2. No members of the agency staff shall participate in their official capacities in any proceedings which may fund or otherwise support:

- (a) individuals or organizations with whom the staff members are employed or are negotiating with for future employment, or
- (b) organizations for which the staff members serve on the governing boards.

3. All members of the Commission, advisory panels or juries, and staff shall file and keep current on an annual basis with the Director statements listing those organizations reasonably expected to be eligible for Agency funds in which they have a familial or policy-making interest, or direct and substantial financial interest.

4. The Chair of the Commission shall have responsibility to see that members of the Commission abide by these rules regarding conflict of interest, and the Director shall have similar responsibilities regarding the staff.

BASIS STATEMENT:

This rule is intended to clarify and make consistent the process by which application for grants to the Maine Arts Commission shall be made. The standards set forth will establish eligibility, application process and review procedures by which artists and nonprofit organizations can apply for grants.

AUTHORITY: Title 27 MRSA Section 409

EFFECTIVE DATE:

Comments and Responses to Comments on the Proposed Rule for Awarding Grants and Providing Services.

During the public comment period a letter was received from Don Wismer of Kents Hill making the following suggestions:

1. Limit the authority of the Director to make final decisions on any grant program, because it "it removes the Commission too far from its decision-making responsibilities in the fiscal area."

The Agency's newly-adopted long range plan calls for simplified grant making. Therefore, the Commission continues the practice of allowing the Director to make final decisions within certain smaller program. The full Commission and the Policy, Planning and Evaluation Committee of the Commission have ongoing oversight with regard to policy and procedural issues effecting these and all grant programs.

2. Alter language regarding C.1.(a) Conflict of Interest to read:

- (a) submit or sponsor applications or proposals, or be under current consideration for or currently receive or are approved to receive under an Agency program, Agency funds .

The Commission carefully reviewed it's Conflict of Interest Policy during the long range planning process, and has found the current practice to be workable and equitable. Moreover, the proposed language underlined above is unclear.

After reviewing the comments, the Arts Commission concluded that the proposed Rule was both appropriate and legal as written. Consequently, the Maine Arts Commission did not make any changes.

Rules to Carry Out The Percent for Art Act

SUMMARY: The following rules to carry out The Percent for Art Act outline the purpose, selection procedures, standards, eligibility of artists, inclusions and exclusions, and contracting procedures.

SECTION 1. Purpose and Scope

The following rules have been established to assure the expeditious and equitable selection of works of art for public buildings and other facilities, and shall be implemented with the guidance of the Maine Arts Commission, the governing authority.

SECTION 2. Selection Procedures

A. Advisory Committee

Selection shall be by the contracting agency which shall consider the recommendations presented by an advisory committee composed of members chosen by the contracting agency and by the Director of the Maine Arts Commission.

1. Size: The number serving shall be no less than three and no more than five, except that in the case of projects with Percent for Art budgets of less than \$7,000, the number shall be three.

2. Composition: The project architect, a representative chosen by the contracting agency, and a representative chosen by the Director of the Maine Arts Commission shall be members of all advisory committees. Additional advisory committee members shall be selected equally by the contracting agency and by the Director of the Maine Arts Commission from any of the following areas in whatever combination best applies to the project; museum director or curator, art historian, critic, collector, artist not in competition, art educator, or lay member of the public, except that in the case of any public school, vocational school, or university construction, a student may be appointed by the contracting agency.

3. Responsibilities

a. Contracting Agency Representatives: Committee members representing the contracting agency shall serve as chair and secretary of the committee. A single committee member may serve in both capacities.

i. Chair: The committee chair serves as the liaison to the contracting agency, keeps records, administers the budget, publicizes the project, and files final reports.

ii. Secretary: The committee secretary serves as the liaison among committee members, keeps and distributes minutes of each meeting, and prepares requests for proposals and other correspondence with artists.

b. Maine Arts Commission Representatives: Committee members appointed by the Director of the Maine Arts Commission shall participate in all committee decisions and shall provide artistic and technical advice.

c. Architect: A representative of the architectural firm shall participate in all committee decisions, and shall provide technical assistance. Engineering and design changes required for installation or display shall be compensated separately. See section 3.B., Inclusions and Exclusions.

d. Maine Arts Commission: The Director of the Maine Arts Commission, or the Director's designee, coordinates the Percent for Art program, maintains the Artist Registry, interprets the Percent for Art Act, provides information and technical assistance, and prepares reports and makes presentations to the Commission for approval of the selection process.

4. Remuneration: Committee members not appointed by the contracting agency shall be reimbursed for their necessary travel expenses at current state government rates or contracting agency rates. In the case of necessary off-site travel, committee members appointed by the contracting agency may also be reimbursed for their travel expenses. Reimbursable administrative costs incurred by advisory committee members and by the contracting agency shall include but may not be limited to: honoraria or design fees, postage, duplication, advertising, and telephone costs. The total cost of advisory committee expenses for each project shall not exceed 10% of the amount allocated for the purchase of works of art, except in certain circumstances approved by the Director of the Maine Arts Commission.

5. Commission Approval: The Commission delegates final selection of the artists and artwork to the advisory committee and approves the procedures followed for the project under the rules and regulations.

6. Local Approval: If the contracting agency is a public school or school district which does not delegate final selection of the artists and artwork to the advisory committee, it shall appoint at least one representative from its governing board to sit as a voting member on the advisory committee.

7. Documentation: Each contracting agency shall document the process of selecting works of art and artists. Minutes of each advisory selection committee meeting shall be forwarded to the Maine Arts Commission office by the committee secretary. Final written documentation shall be forwarded to the Commission office within thirty days of the completion and/or installation of any project by the committee chair. Artists shall provide photographic documentation of the artwork installed to the Commission office in the form of six professional quality slides and two 8" x 10" black and white photographs.

8. Conflict of Interest: All committee members shall disclose all potential conflicts of interest and shall disqualify themselves if such conflicts violate state law or established standards for juried competitions.

a. Advisory committee members must not have direct or indirect interest, financial or otherwise, or engage in any business or transaction, or incur any obligation of any nature that conflicts with the selection of artists and artwork for the designated Percent for Art project.

b. Artists under consideration shall not be affiliated with advisory committee members, with the contracting agency, with the architectural or design firm involved with the project, or with the Commission staff member assigned to the project. Affiliation which constitutes conflict of interest shall include but not be limited to:

i. An employee, employer, agent, or dealer relationship;

ii. A relationship by blood, marriage, business, partnership or collaboration;

iii. Any other relationship that may compromise the objectivity of members of the advisory committee.

c. Artists who are employees of the University of Maine and Maine Technical College Systems shall be ineligible only for Percent for Art projects at the campus where they are employed.

B. Eligibility of Artists

1. Maine Residency: Preference may be given to artists who are Maine residents.

2. Registration: All living artists who wish to be considered for sales or commissions in the Percent for Art program shall register with the Maine Arts Commission. Biographical, visual, and other materials, where appropriate, shall be entered into the open Artist Registry, which shall serve as the primary resource for the program. Eligibility to the selective Studio Art and Public Art Registries shall be based upon qualifications and shall be determined by a jury of peers appointed by the Commission. Artists who have not been selected for inclusion in the Studio Art and Public Art Registries shall be eligible for sales or commissions only upon the recommendation of the advisory committee.

a. Studio Art Registry: All registered artists selected for inclusion in the Studio Art Registry shall be eligible for sale of existing artwork in the Percent for Art program.

b. Public Art Registry: All artists selected for inclusion in the Public Art Registry shall be eligible for commissions in the Percent for Art program.

C. Methods of Selection

1. Direct Selection: The advisory committee recommends the purchase of a completed work of art or the commissioning of a specific artist selected from the Artists Registry.

2. Limited Competition: The advisory committee recommends that a limited number of artists selected from the Artists Registry be interviewed or submit proposals on a competitive basis.

3. Open Competition: A competition to which artists must apply directly. A prospectus, appropriate to the specific project, is prepared and its availability is widely publicized. A limited number of applicants are then selected to prepare detailed proposals.

4. Disapproval: If the advisory committee's recommendation is not approved by the local contracting agency, or if the selection process is not approved by the Commission, the process must begin again. Any of the above Methods of Selection may be used in this case.

5. In all projects in which the total art purchase budget is less than \$7,000, the advisory committee shall select artwork either by direct purchase of existing artwork, or by a limited competition in which a single commission is awarded .

SECTION 3. Standards

A. Criteria for Selecting Works of Art

1. Style and Nature: Works of any aesthetic persuasion which are appropriate as Art in Public Spaces and compatible in scale, material, form, and content with their surroundings will be considered. Works may be participatory in nature.

2. Quality: The consideration of highest priority is the inherent quality of the work itself.

3. Media: All art forms may be considered.

4. Elements of Design: The advisory committee and the artist will take into account the fact that, as differentiated from works in a museum context, Art in Public Spaces may function as focal points, modifiers, or definers of specific spaces, and/or establishers of identity.

5. Conservation: Due consideration shall be given to structural and surface soundness and to permanence in terms of relative proof against theft, vandalism, weathering, or excessive maintenance or repair costs.

B. Inclusions and Exclusions

1. Inclusions: The portion of the capital appropriation reserved for works of art may be expended for the following:

a. The cost of the work of art: Generally, if the artist is commissioned to create a new work, the following are taken into account in the contract:

- i. Artist's professional design fee;
- ii. Labor or assistants;
- iii. Materials required for production of work;
- iv. Studio and operating costs of the artist, including rent, depreciation, utilities, communications, insurance, and other direct and indirect costs;

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- v. Travel of the artist for site visitation and research;
 - vi. Transportation of the work to the site;
 - vii. Installation of the completed work;
 - viii. Photographic documentation required by the Commission.
 - ix. Engineering, codes compliance, and other regulatory costs associated with the creation of the work of art.

b. Identification plaques and labels.

c. Waterworks and electrical and mechanical devices or equipment which are integral parts of the work of art.

d. Frames, mats, or pedestals necessary for the proper presentation of the works of art.

e. Honoraria and Design Fees: Artists selected as finalists shall be paid honoraria or design fees for written proposals or models at rates to be established by the advisory committee, with a minimum of \$100, and shall be reimbursed for necessary travel expenses at current state government rates.

f. Other items the Commission approves as appropriate to the particular work of art.

2. Exclusions: The portion of the capital appropriation reserved for works of art may not be expended for the following:

a. Reproductions by mechanical or other means of original works of art. Included, however, may be limited editions, controlled by the artist, of original prints, cast sculptures, photographs, etc.

b. Decorative, ornamental, or functional elements which are designed by the building architect or consultants engaged by the architect.

c. Those elements generally considered to be components of a landscape architectural design: plant materials, pools, paths, benches, receptacles, fixtures, planters, etc., unless they function as integral components of an earthwork or environmental public art installation.

d. "Art objects" which are mass produced or of a standard design, such as playground sculpture or fountains.

e. Directional or other solely functional elements, such as supergraphics, signage, color coding, maps, etc.

f. Those items which are required to fulfill the basic purpose of the agency. Examples would be works of art in the collection of a state museum or works of art fulfilling an interpretive or educational role in a state park, the state library, or a college or university art museum or gallery.

- g. Electrical, water, or mechanical service for activation of the work.
- h. Exhibitions and educational programs related to the work.
- i. In connection with the works of art, before or after they are installed: lighting, registration, dedication, unveiling, insurance, security, publicity or publications, and maintenance (preservation, conservation, restoration, repair).

C. Long Term Care

1. Insurance: Upon installation, the contracting agency shall insure the work against loss, damage, or theft.
2. Maintenance: The contracting agency shall maintain works of art in accordance with a maintenance agreement negotiated with the artist at the time of installation. The contracting agency shall not touch works of art in any way whatsoever without prior approval by the Maine Arts Commission.
3. Conservation: The contracting agency shall make every reasonable effort to consult with the Commission, the artist and a professional conservator in all matters concerning repairs and restoration of works of art. All restoration work shall be done in accordance with the Code of Ethics and Standards of Practice of the American Institute of Conservation, 3545 Williamsburg Lane, NW, Washington, D.C. 20008, as amended.
4. Relocation and removal: Works of art shall be placed in the locations for which they are selected. The Maine Arts Commission and the Artist shall be notified if, for any reason, a permanently installed work of art must be removed or moved to a new location. The Commission and the Artist shall have the right to advise the contracting agency or its designee regarding this treatment of the work.
 - a. Relocation: If the work was created for a specific site, the new site to which it is to be moved must be consistent with the artist's original intent.
 - b. Removal: Works of art acquired in the Percent for Art program may be removed only with the approval of the Maine Arts Commission. Requests for permission to remove works of art shall be made in writing and shall be reviewed at the next regular meeting of the Commission.
5. Transfer of Ownership: If a work of art acquired in the Percent for Art program is removed, ownership shall be transferred by sale of the work. Proceeds from the sale of the work shall be used to acquire new works of art in the Percent for Art program. Sale shall be made, in order of priority, to one of the following parties:
 - a. Artist: To the artist who created the work. The artist shall have the right to purchase the work for its appraised fair market value. In the case of a work of art whose removal could require destruction of the work, the artist shall have the right to acquire the work or its surviving components for that portion of the cost of removal which exceeds the cost of destruction of the work.

b. Non-Profit Organization: If the artist does not choose to purchase the work of art, a non-profit organization whose mission includes the presentation of works of art may acquire the work under the same conditions as those that apply to the artist.

c. State of Maine: If neither the artist nor a qualified non-profit organization wishes to purchase the work of art, the State of Maine may acquire the work under the same conditions as those that apply to the artist, except that the State of Maine shall pay only that portion of the appraised fair market value equal to the portion of the original purchase price paid by the original acquiring institution.

d. Other: In the event that none of the above parties wish to acquire the work of art, then the work may be offered to the public under the same conditions as those that apply to the artist.

SECTION 4. Contracting Procedures

A. Artists' Contracts: All artists' contracts shall follow the form and substance of the model Percent for Art contract provided by the Maine Arts Commission.

B. Public School Construction: A school construction project is subject to this Act only upon the affirmative vote of the governing board of the school administrative unit prior to the granting of concept approval by the State Board of Education. After the granting of concept approval to a school construction project to include Percent for Art funds, exclusion of Percent for Art will be allowed only under extenuating circumstances and with the approval of the Commissioner of the Department of Education who shall consider the recommendation of the Director of the Maine Arts Commission.

C. Other Actions: All requests by the contracting agency for actions to be considered by the Commission shall be made in writing.

BASIS STATEMENT: These rules are to aid in the implementation of The Percent for Art Act, which was created by the Legislature in order to encourage the arts in Maine.

AUTHORITY: 27 MRSA Section 458

EFFECTIVE DATE:

PARTNERSHIPS

The Commission has entered into a close working relationship with the **Maine Department of Education** through the loan of a full time staff member to assist with the planning and implementation of arts education legislative initiatives, to research the needs of arts education, and to assess model programs throughout the country that may be able to be used in Maine.

The Maine Arts Commission has collaborated with the **Maine Office of Substance Abuse**, the **Dirigo Prevention Coalition** and several other organizations interested in health options for youth, to attract a grant from the **Office of Juvenile Justice and Delinquency Prevention** to stop underage drinking. The \$360,000 over two years will support Youth Voices, a program in as many as 15 Maine communities which encourages youth to be the major planners for how to combat underage drinking. The Commission helped identify artists for an initial training program and promotes use of artists as role models and consultants for each community project. This expands the Commission's collaborative efforts with the Office of Substance Abuse.

The Department of Human Services, Office of Childcare and Head Start, is cooperating with the Maine Arts Commission to sponsor a series of Arts and Early Childhood Development workshops for teachers. Workshops took place in Bangor, Rockland, Belfast, Brunswick, and Augusta. Next year workshops are planned for York, Androscoggin, Franklin, Oxford and Cumberland counties. In addition the Office of Childcare and Head Start are planning to cooperate on grants to serve 12-15 year olds in after school programs.

We have a close working relationship with **Maine Alliance for Arts Education** and **other arts education and arts service groups**.

The Commission has developed a formal working relationship with **Maine Humanities Council, Maine Historic Preservation Commission, Maine State Library, Maine State Museum, Maine Historical Society, and Maine State Archives** through the **Cultural Affairs Council**, resulting in a joint legislative initiative mentioned earlier.

We have increased coordination with the **Maine Community Foundation** in partnership with Lila Wallace Readers Digest Fund to develop audiences in the state.

We have developed a comprehensive cultural tourism program with the **State Office of Tourism**. We are also working with **Eastern Maine Development Corp.** on cultural tourism and economic development projects, and with **Maine Development Foundation** to establish cultural economic indicators.

We have developed relationships with **Maine Philanthropy Center** ,and, as an underwriter, support their efforts to serve arts organizations and their communities.

The Commission has a working relationship with many state agencies for the Percent for Art Program, including the **Bureau of General Services, the University of Maine and Technical College Systems, the Department of Transportation, the Northern New England Passenger Rail Authority** to expand Percent for Art Projects into ferry terminals and other transportation

sites, and other organizations and communities seeking artists from whom to purchase or commission art for public places.

We also have developed a strong partnership with the **State Planning Office** in support of the Community Arts Development program, the Governor's Committee to Increase the Retirement Industry, and several other youth oriented initiatives.

The Commission is a founding member of **New England Foundation for the Arts (NEFA)**, and at this time is examining the relevance of the NEFA's programs to Maine's new direction. The directors of the **six New England state arts agencies** meet regularly, independent of NEFA, as do the Arts in Education coordinators. The Commission's ADA/504 coordinator is currently working with a group that includes staff members from New England State Arts Agencies and **Very Special Arts** organizations in partnership with the **National Endowment for the Arts** Office of Accessibility to present a comprehensive regional access conference in 1999. The Traditional Arts coordinators of the northern tier states (NH, VT, and ME) work together on such projects as the Sur Bois (Franco wood-carving) project and the New England Storytelling Project.

Nationally, the Maine Arts Commission is a member of **National Assembly of State Arts Agencies** and **Americans for the Arts**. The agency also has affiliations with other national organizations/agencies such as **Save Outdoor Sculpture**.

As part of the Commission's new Contemporary Artist Development Program, we work with Maine's statewide arts service organizations such as the **Maine Writers & Publishers Alliance**, **Maine Performing Arts Network**, the **Maine Composer's Forum**, and **Maine Crafts Association** to present collaborative information meetings for artists across the state.

CONSTITUENCIES

The Commission deals with the constituencies listed below. We envision continued involvement with this broad range of constituencies.

- K-12 students
- teachers (classroom and arts specialists)
- early childhood educators and providers
- education administrators
- individual artists
- arts audiences
- community leaders
- people w/disabilities
- arts administrators
- state workers
- legislators
- arts institutions
- units of local state, regional, and national government
- University of Maine and technical college system officials
- members of the public
- private sector developers
- architects
- commercial gallery owners

EFFORTS AT ALTERNATIVE DELIVERY SYSTEMS:

The Commission's efforts at alternative delivery systems are achieved through collaborations and partnerships with other agencies. By focussing on the facilitating role and by establishing partnerships, the Commission maximizes private support for the arts without competing with arts institutions and organizations we are here to serve. For example, the Commission has established two private funds for the arts with the Maine Community Foundation. One is a fund for rural arts needs with funding from the National Endowment for the Arts. The second fund to increase attendance for the arts is supported by a private national foundation, the Lila-Wallace Readers Digest Fund. We also are exploring private support for the New Century Program from the Pew Charitable Trust (Philadelphia), and the Ford Foundation (New York).

The Commission only seeks private funds for initiatives that attract support for Maine projects which would not normally receive these funds, and often the Commission acts as a facilitator and supporter rather than an applicant. Recent examples of this latter approach include recent grants from the Davis and Stephen King Foundations for two cultural tourism projects, the Art Museum Trail and the Music Trail. The Commission is also a member and active partner of the Maine Philanthropy Center, a grant and foundation research center and a service organization for Maine's public and private grantmakers.

Since private organizations such as the Maine Community Foundation exist, with which the Commission already participates, there is no functional need to consider privatization. Moreover, our chief funding source, the National Endowment for the Arts requires the existence of a state government arts agency in Maine in order to receive the substantial federal funds. The issue of privatization with the above points noted has been addressed several times in the past few years, including Sunset review in 1986, legislative queries in the early 1990's, and the Productivity Task Force in 1995.

Finally, as a matter of efficiency, the state cultural agencies have combined all financial and personnel functions in one central site at the Maine State Library, and through the Cultural Affairs Council, we coordinate inter-agency planning, evaluation and budget presentations.

EMERGING ISSUES FOR THE AGENCY:

There are four issues of critical importance for the Commission.

- 1) The Commission, and the cultural agencies in general, need to secure a reasonable funding base, first by having the New Century Program become an ongoing source of funding.
- 2) In 2001 the Commission needs to evaluate all of its programs in preparation for a new three-year plan application to the National Endowment for the Arts. In particular, we need to evaluate the agency's Arts in Education program and make recommendations to the Legislature's Joint Standing Committee on Education and Cultural Affairs regarding program changes and the funding formula.
- 3) The agency needs to continue to employ and expand resources for the use of temporary technology by providing greater technological services to our constituencies. Expanding the web site service is a chief priority.
- 4) The Commission must find a better means to help Maine's arts institutions – our museums, performing and visual arts institutions, and statewide arts service groups – achieve long term financial stability. We have held initial public meetings with National Arts Stabilization, a leading organization which helps arts institutions achieve a more positive financial condition by paying greater attention to reserve funds, cash flow, and the creation of endowments.

OTHER INFORMATION:

For the Committee's information we have enclosed a number of agency publications:

- Annual report
- Tri-fold
- * • Guidelines
- * • Artists guidelines
- Percent for Art guidelines
- Partnership Agreement
- Traditional Arts publications
 - a) Basket Trees Basket Makers
 - b) Generations
 - c) Masters and Apprentices
 - d) Traditional Arts Apprenticeship Program
 - e) Working in the Woods

* Currently out of print. Will be distributed at a later date.