

Museum and Library Services Act

(Title II of P.L. 94-462)

AN ACT To amend and extend the National Foundation on the Arts and Humanities Act of 1965, to provide for the improvement of museum services, to establish a challenge grant program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arts, Humanities, and Cultural Affairs Act of 1976".

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TITLE II—MUSEUM AND LIBRARY SERVICES

Subtitle A—General Provisions

SEC. 201. SHORT TITLE.

This title may be cited as the "Museum and Library Services Act".

(20 U.S.C. 9101 note) Enacted October 8, 1976, P.L. 94-462, title II, sec. 201, 90 Stat. 1975, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-294.

SEC. 202. GENERAL DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the National Commission on Libraries and Information Science established under section 3 of the National Commission on Libraries and Information Sciences Act (20 U.S.C. 1502).

(2) DIRECTOR.—The term "Director" means the Director of the Institute appointed under section 204.

(3) INSTITUTE.—The term "Institute" means the Institute of Museum and Library Services established under section 203.

(4) MUSEUM BOARD.—The term "Museum Board" means the National Museum Services Board established under section 275.

(20 U.S.C. 9101) Enacted October 8, 1976, P.L. 94-462, title II, sec. 203, 90 Stat. 1975, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-294.

SEC. 203. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

(a) ESTABLISHMENT.—There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.



(b) OFFICES.—The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

(20 U.S.C. 9102) Enacted Oct. 8, 1976, P.L. 462, title II, sec. 203, 90 Stat. 1975; amended Dec. 4, 1980, P.L. 96-496, sec. 201(a), 94 Stat. 2591; amended May 31, 1984, P.L. 98-306, sec. 8, 98 Stat. 225, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-294.

SEC. 204. DIRECTOR OF THE INSTITUTE.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

(2) TERM.—The Director shall serve for a term of 4 years.

(3) QUALIFICATIONS.—Beginning with the first individual appointed to the position of Director after the date of enactment of the Museum and Library Services Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after the date of enactment of the Museum and Library Services Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

(b) COMPENSATION.—The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(c) DUTIES AND POWERS.—The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this title.

(d) NONDELEGATION.—The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

(e) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

(20 U.S.C. 9103) Enacted, Oct. 8, 1976, title II, sec. 204, 90 Stat. 1975, 1976; amended Dec. 4, 1980, P.L. 96-496, sec. 201(b), 94 Stat. 2592; amended May 31, 1984, P.L. 98-306, sec. 9, 98 Stat. 225; amended Dec. 20, 1985, P.L. 99-194, sec. 201, 99 Stat. 1344; amended Nov. 5, 1990, P.L. 101-512, sec. 201, 104 Stat. 1974, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-294.

SEC. 205. DEPUTY DIRECTORS.

The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by

the Director from among individuals who have expertise in museum services.

(20 U.S.C. 9104) Enacted Oct. 8, 1976, P.L. 94-462, title II, sec. 205, 90 Stat. 1976, 1977; amended Dec. 4, 1980, P.L. 96-496, sec. 201(c), 94 Stat. 2592; amended May 31, 1984, P.L. 98-306, sec. 10, 98 Stat. 225; amended Dec. 20, 1985, P.L. 99-194, sec. 202, 99 Stat. 1344; amended Nov. 5, 1990, P.L. 101-512, sec. 202(b), 104 Stat. 1974, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-295.

SEC. 206. PERSONNEL.

(a) IN GENERAL.—The Director may, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

(b) APPOINTMENT AND COMPENSATION OF TECHNICAL AND PROFESSIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), the Director may appoint without regard to the provisions of title 5, United States Code, governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute.

(2) NUMBER AND COMPENSATION.—The number of employees appointed and compensated under paragraph (1) shall not exceed $\frac{1}{5}$ of the number of full-time regular or professional employees of the Institute. The rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS-15 of the General Schedule under section 5332 of title 5.

(c) VOLUNTARY SERVICES.—The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

(20 U.S.C. 9105) Enacted Oct. 8, 1976, title II, sec. 206, 90 Stat. 1977; amended Dec. 4, 1980, P.L. 96-496, sec. 201(d), 94 Stat. 2592; amended Nov. 5, 1990, P.L. 101-512, sec. 203, 104 Stat. 1975, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-9105; amended Dec. 1, 1997, P.L. 105-128, sec. 2, 111 Stat. 2548.

SEC. 207. CONTRIBUTIONS.

The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property of services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

(20 U.S.C. 9106) Enacted Oct. 8, 1976, title II, sec. 207, 90 Stat. 1977, amended September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-295.

Subtitle B—Library Services and Technology

SEC. 211. SHORT TITLE.

This subtitle may be cited as the “Library Services and Technology Act”.

(20 U.S.C. 9101 note) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–295.

SEC. 212. PURPOSE.

It is the purpose of this subtitle—

- (1) to consolidate Federal library service programs;
 - (2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;
 - (3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;
 - (4) to provide linkages among and between libraries;
- and
- (5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

(20 U.S.C. 9121) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–295.

SEC. 213. DEFINITIONS.

As used in this subtitle:

(1) **INDIAN TRIBE.**—The term “Indian tribe” means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) **LIBRARY.**—The term “library” includes—

- (A) a public library;
- (B) a public elementary school or secondary school library;
- (C) an academic library;
- (D) a research library, which for the purposes of this subtitle means a library that—
 - (i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and
 - (ii) is not an integral part of an institution of higher education; and
- (E) a private library or other special library, but only if the State in which such private or special library is located determines that the library should be considered a library for purposes of this subtitle.

(3) **LIBRARY CONSORTIUM.**—The term “library consortium” means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the re-



sources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

(4) STATE.—The term “State”, unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(5) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term “State library administrative agency” means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

(6) STATE PLAN.—The term “State plan” means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subtitle, provides assurances for establishing the State’s policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subtitle, submits copies for approval as required by regulations promulgated by the Director, identifies a State’s library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subtitle.

(20 U.S.C. 9122) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–296; amended Dec. 1, 1997, P.L. 105–128, sec. 3, 111 Stat. 2548.

SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated \$150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

(2) TRANSFER.—The Secretary of Education shall—

(A) transfer promptly to the Director any funds appropriated under the authority of paragraph (1), to enable the Director to carry out this subtitle; and

(B) not exercise any authority concerning the administration of this title other than the transfer described in subparagraph (A).

(b) FORWARD FUNDING.—

(1) IN GENERAL.—To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants contracts, or other payments under any program under this subtitle are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section

may result in the enactment, in a fiscal year, of separate appropriations for a program under this subtitle (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(c) ADMINISTRATION.—Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subtitle.

(20 U.S.C. 9123) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–296.

CHAPTER 1—BASIC PROGRAM REQUIREMENTS

SEC. 221. RESERVATIONS AND ALLOTMENTS.

(a) RESERVATIONS.—

(1) IN GENERAL.—From the amount appropriated under the authority of section 214 for any fiscal year, the Director—

(A) shall reserve 1.75 percent to award grants in accordance with section 261; and

(B) shall reserve 3.75 percent to award national leadership grants or contracts in accordance with section 262.

(2) SPECIAL RULE.—If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) for the fiscal year succeeding the fiscal year for which the funds were so reserved.

(b) ALLOTMENTS.—

(1) IN GENERAL.—From the sums appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

(2) REMAINDER.—From the remainder of any sums appropriated under the authority of section 214 that are not reserved under subsection (a) and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

(3) MINIMUM ALLOTMENT.—

(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be \$340,000, except that the minimum allotment shall be \$40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

(C) SPECIAL RULE.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

(4) DATA.—The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

(20 U.S.C. 9131) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–297; amended Dec. 1, 1997, P.L. 105–128, sec. 4, 111 Stat. 2548–2549.

SEC. 222. ADMINISTRATION.

(a) IN GENERAL.—Not more than 4 percent of the total amount of funds received under this subtitle for any fiscal year by a State may be used for administrative costs.

(b) CONSTRUCTION.—Nothing in this section shall be construed to limit spending for evaluation costs under section 224(c) from sources other than this subtitle.

(20 U.S.C. 9132) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–298.

SEC. 223. PAYMENTS; FEDERAL SHARE; AND MAINTENANCE OF EFFORT REQUIREMENTS.

(a) PAYMENTS.—Subject to appropriations provided pursuant to section 214, the Director shall pay to each State library administrative agency having a State plan approved under section 224 the Federal share of the cost of the activities described in the State plan.

(b) FEDERAL SHARE.—



- (1) IN GENERAL.—The Federal share shall be 66 percent.
- (2) NON-FEDERAL SHARE.—The non-Federal share of payments shall be provided from non-Federal, State, or local sources.
- (c) MAINTENANCE OF EFFORT.—
- (1) STATE EXPENDITURES.—
- (A) REQUIREMENT.—
- (i) IN GENERAL.—The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this chapter shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—
- (I) the numerator of which is the result obtained by subtracting the level of such State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and
- (II) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.
- (ii) CALCULATION.—Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).
- (B) DECREASE IN FEDERAL SUPPORT.—If the amount made available under this subtitle for a fiscal year is less than the amount made available under this subtitle for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.
- (2) LEVEL OF STATE EXPENDITURES.—The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subtitle. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.
- (3) WAIVER.—The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable cir-

cumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(20 U.S.C. 9133) Enacted September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-299; amended Dec. 1, 1997, P.L. 105-128, sec. 5, 111 Stat. 2549.

SEC. 224. STATE PLANS.

(a) STATE PLAN REQUIRED.—

(1) IN GENERAL.—In order to be eligible to receive a grant under this subtitle, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

(2) DURATION.—The State plan shall cover a period of 5 fiscal years.

(3) REVISIONS.—If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

(b) CONTENTS.—The State plan shall—

(1) establish goals, and specify priorities, for the State consistent with the purposes of this subtitle;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

(6) provide assurances that the State will comply with subsection (f); and

(7) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.¹

(c) EVALUATION AND REPORT.—Each State library administrative agency receiving a grant under this subtitle shall independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

(d) INFORMATION.—Each library receiving assistance under this subtitle shall submit to the State library administrative agency

¹Pursuant to subsection (b) of section 1712 of the Miscellaneous Appropriations Act, 2001 (114 Stat. 2763A-343), as enacted into law by section 1(a)(4) of Public Law 106-554, the amendments made by section 1712(a) adding a new paragraph (7) and a new subsection (f) “shall take effect 120 days [April 21, 2001] after the date of the enactment of this Act”.



such information as such agency may require to meet the requirements of subsection (c).

(e) APPROVAL.—

(1) IN GENERAL.—The Director shall approve any State plan under this subtitle that meets the requirements of this subtitle and provides satisfactory assurances that the provisions of such plan will be carried out.

(2) PUBLIC AVAILABILITY.—Each State library administrative agency receiving a grant under this subtitle shall make the State plan available to the public

(3) ADMINISTRATION.—If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

(B) offer the State library administrative agency the opportunity to revise its State plan;

(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

(D) provide the State library administrative agency the opportunity for a hearing.

(f) INTERNET SAFETY.—

(1) IN GENERAL.—No funds made available under this Act for a library described in section 213(2)(A) or (B) that does not receive services at discount rates under section 254(h)(6) of the Communications Act of 1934, as added by section 1721 of this Children's Internet Protection Act, may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless—

(A) such library—

(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene;

(II) child pornography; or

(III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(B) such library—

(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene; or

(II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(2) ACCESS TO OTHER MATERIALS.—Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

(3) DISABLING DURING CERTAIN USE.—An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

(4) TIMING AND APPLICABILITY OF IMPLEMENTATION.—

(A) IN GENERAL.—A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this Act following the effective date of this subsection, and for each subsequent program funding year thereafter.

(B) PROCESS.—

(i) LIBRARIES WITH INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this Act.

(ii) LIBRARIES WITHOUT INTERNET SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES IN PLACE.—A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

(I) for the first program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after the effective date of this subsection in which the library applies for funds under this Act, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this Act for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

(iii) WAIVERS.—Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that clause. The library shall notify

the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this Act.

(5) NONCOMPLIANCE.—

(A) USE OF GENERAL EDUCATION PROVISIONS ACT REMEDIES.—Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this Act is failing to comply substantially with the requirements of this subsection, the Director may—

(i) withhold further payments to the recipient under this Act,

(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

(B) RECOVERY OF FUNDS PROHIBITED.—The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

(C) RECOMMENCEMENT OF PAYMENTS.—Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

(6) SEPARABILITY.—If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

(7) DEFINITIONS.—In this section:

(A) CHILD PORNOGRAPHY.—The term “child pornography” has the meaning given such term in section 2256 of title 18, United States Code.

(B) HARMFUL TO MINORS.—The term “harmful to minors” means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(C) MINOR.—The term “minor” means an individual who has not attained the age of 17.

(D) OBSCENE.—The term “obscene” has the meaning given such term in section 1460 of title 18, United States Code.

(E) SEXUAL ACT; SEXUAL CONTACT.—The terms “sexual act” and “sexual contact” have the meanings given such terms in section 2246 of title 18, United States Code.

(20 U.S.C. 9134) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–300.

CHAPTER 2—LIBRARY PROGRAMS

SEC. 231. GRANTS TO STATES.

(a) IN GENERAL.—Of the funds provided to a State library administrative agency under section 214, such agency shall expend, either directly or through subgrants of cooperative agreements, at least 96 percent of such funds for—

(1)(A) establishing or enhancing electronic linkages among or between libraries;

(B) electronically linking libraries with educational, social, or information services;

(C) assisting libraries in accessing information through electronic networks;

(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the purposes described in subsection (a) between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

(20 U.S.C. 9141) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–301.

CHAPTER 3—ADMINISTRATIVE PROVISIONS

Subchapter A—State Requirements

SEC. 251. STATE ADVISORY COUNCILS.

Each State desiring assistance under this subtitle may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, spe-



cial, and institutional libraries, and libraries serving individuals with disabilities.

(20 U.S.C. 9151) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–301.

Subchapter B—Federal Requirements

SEC. 261. SERVICES FOR NATIVE AMERICANS.

From amounts reserved under section 221(a)(1)(A) for any fiscal year the Director shall award grants to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7207 of the Native Hawaiian Education Act to enable such tribes and organizations to carry out the activities described in section 231.

(20 U.S.C. 9161) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–302; amended Dec. 1, 1997, P.L. 105–128, sec. 6, 111 Stat. 2549; Jan. 8, 2002, P.L. 107–110, sec. 702(d), 115 Stat. 1947.

SEC. 262. NATIONAL LEADERSHIP GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—From the amounts reserved under section 221(a)(1)(B) for any fiscal year the Director shall establish and carry out a program of awarding grants or entering into contracts or cooperative agreements to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants, contracts, and cooperative agreements shall be used for activities that may include—

(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

(3) preserving or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) model programs demonstrating cooperative efforts between libraries and museums.

(b) GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Director may carry out the activities described in subsection (a) by awarding grants to, or entering into contracts or cooperative agreements,¹ with, libraries, agencies, institutions of higher education, or museums, where appropriate.

(2) COMPETITIVE BASIS.—Grants, contracts, and cooperative agreements under this section shall be awarded on a competitive basis.

¹ So in law. Public Law 105–128 inserted “or cooperative agreements,” after “contracts“. Probably should not have added a comma.



(c) SPECIAL RULE.—The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

(20 U.S.C. 9162) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–302; amended Dec. 1, 1997, P.L. 105–128, secs. 7 and 8, 111 Stat. 2549–2550.

SEC. 263. STATE AND LOCAL INITIATIVES.

Nothing in this subtitle shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subtitle, the determination of the best uses of the funds provided under this subtitle, shall be reserved for the States and their local subdivisions.

(20 U.S.C. 9163) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–302.

Subtitle C—Museum Services

SEC. 271. PURPOSE.

It is the purpose of this subtitle—

(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups;

(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

(20 U.S.C. 9171) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–302.

SEC. 272. DEFINITIONS.

As used in this subtitle:

(1) MUSEUM.—The term “museum” means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

(2) STATE.—The term “State” means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(20 U.S.C. 9172) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–303.

SEC. 273. MUSEUM SERVICES ACTIVITIES.

(a) GRANTS.—The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the



Federal share of the cost of increasing and improving museum services, through such activities as—

(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

(5) assisting museums in the conservation of their collections;

(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

(7) model programs demonstrating cooperative efforts between libraries and museums.

(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—

(1) PROJECTS TO STRENGTHEN MUSEUM SERVICES.—The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

(2) LIMITATION ON AMOUNT.—The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subtitle for such fiscal year.

4Operational expenses.—No financial assistance may be provided under this subsection to pay for operational expenses.

(c) FEDERAL SHARE.—

(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsection (a) and (b) shall be not more than 50 percent.

(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to make grants under subsection (a), or enter into contracts or agreements under subsection (b), for which the Federal share may be greater than 50 percent.

(d) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subtitle. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this

subtitle shall not be subject to any review outside of the Institute.

(20 U.S.C. 9173) Enacted September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-303.

SEC. 274. AWARD.

The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

(20 U.S.C. 9174) Enacted September 30, 1996, P.L. 104-208, title VII, sec. 702, 110 Stat. 3009-304.

SEC. 275. NATIONAL MUSEUM SERVICES BOARD.

(a) ESTABLISHMENT.—There is established in the Institute a National Museum Services Board.

(b) COMPOSITION AND QUALIFICATIONS.—

(1) COMPOSITION.—The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The appointive members of the Museum Board shall be selected from among citizens of the United States—

(A) who are members of the general public;

(B) who are or have been affiliated with—

(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

(c) TERMS.—

(1) IN GENERAL.—Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

- (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.
- (2) REAPPOINTMENT.—No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.
- (3) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.
- (d) DUTIES AND POWERS.—The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—
- (1) financial assistance awarded under this subtitle for museum services; and
 - (2) projects described in section 262(a)(4).
- (e) CHAIRPERSON.—The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.
- (f) MEETINGS.—
- (1) IN GENERAL.—The Museum Board shall meet—
 - (A) not less than 3 times each year, including—
 - (i) not less than 2 times each year separately; and
 - (ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 262(a)(4); and
 - (B) at the call of the Director.
 - (2) VOTE.—All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a $\frac{2}{3}$ majority vote of the total number of the members of the Commission and the Museum Board who are present.
- (g) QUORUM.—A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.
- (h) COMPENSATION AND TRAVEL EXPENSES.—
- (1) COMPENSATION.—Each member of the Museum Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS-15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum Board. All members of the Museum Board who are officers or employees

of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

(2) TRAVEL EXPENSES.—The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

(i) COORDINATION.—The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

(20 U.S.C. 9175) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–304.

SEC. 276. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director \$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

(b) ADMINISTRATION.—Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subtitle.

(c) SUMS REMAINING AVAILABLE.—Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation until expended.

(20 U.S.C. 9176) Enacted September 30, 1996, P.L. 104–208, title VII, sec. 702, 110 Stat. 3009–306.

