

S. 1041. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Explorer*; to the Committee on Commerce, Science, and Transportation.

By Mr. MACK:

S. 1042. A bill to designate a route as the "POW/MIA Memorial Highway," and for other purposes; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself, Mr. INOUE, Mr. MURKOWSKI, Mr. SIMON, Mr. INHOFE, Mr. DODD, Mr. SIMPSON, Mr. AKAKA, Mr. SANTORUM, and Mrs. FEINSTEIN):

S. 1043. A bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. JEFFORDS, Mr. PELL, and Mr. SIMON):

S. 1044. A bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself and Mr. COATS):

S. 1045. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to privatize the National Foundation on the Arts and the Humanities and to transfer certain related functions, and for other purposes; to the Committee on Labor and Human Resources.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself and Mr. LIEBERMAN):

S. Res. 151. A resolution to designate May 14, 1996, and May 14, 1997, as "National Speak No Evil Day", and for other purposes; to the Committee on the Judiciary.

By Mr. ABRAHAM (for himself, Mr. DOLE, Mr. BROWN, Mr. HATCH, Mr. DEWINE, Mr. KYL, and Mr. KEMPTHORNE):

S. Res. 152. A resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 153. A resolution to make certain technical corrections to Senate Resolution 120; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM (for himself, Mr. DOLE, Mr. BROWN, Mr. HATCH, Mr. DEWINE, Mr. KYL, and Mr. KEMPTHORNE):

S. 1039. A bill to require Congress to specify the source of authority under the U.S. Constitution for the enactment of laws, and for other purposes; to the Committee on the Judiciary.

#### LEGISLATION REQUIRING SPECIFICATION OF CONSTITUTIONAL AUTHORITY

Mr. ABRAHAM. Mr. President, I rise today to introduce two pieces of legislation. One is a bill and the other is a resolution. The effect of each is to require that every law that passes through this Chamber explicitly state the constitutional authority pursuant to which it is being enacted.

I believe this requirement will help this body by giving us occasion to pause and reflect on whether the legislation we are considering is in fact within the province of the national government.

It will also help the American people evaluate our work, keeping in mind the question of constitutionality as well as the immediate policy questions presented by the bill.

And it may discourage us, at least at the margin, from adopting legislation outside our proper sphere of authority and responsibility.

All these factors would enhance our citizenry's freedom and make it easier for them to exercise their self-governing authority at the State and local level—the level closest to the people.

Mr. President, it has become commonplace to observe that the elections of 1994 showed the voters' frustration with big government. It seems clear to me that the American people feel that the Federal Government is interfering too much in their lives.

Whether through costly and ineffective Federal programs fraught with micro-managing mandates, business regulations that increase prices and cost jobs, environmental controls that forbid farmers to use their own land in a reasonable fashion, or workplace rules that forbid workers from saving fellow workers from danger, the people have had enough of Washington-knows-best programs.

And I believe the people are right to be concerned about a government that considers everything in life to be a proper subject for Federal legislation. We are in danger in this country of instituting a kind of soft despotism that will crush our democratic liberty under the weight of well-intentioned but overzealous regulations and programs. Intended to serve the people, these laws may enslave them by taking away too much of their natural freedom of action.

That is not the National Government that our Framers envisioned. Clearly there are areas where the Federal Government should intervene to protect people's health, safety and rights. But there must likewise be areas in which the Federal Government cannot intervene in regulating the peoples' lives.

The Framers of our Constitution believed they had devised a system that would separate these areas from each other. They thought that one of the powerful limitations on the National Government would be the principle that the Congress could exercise only the limited, enumerated powers granted it by the people and set out in the Constitution.

That principle was made clear in the original Constitution, which gave Congress not general legislative authority but only "all legislative powers herein granted." And it was emphasized by the adoption of the 10th amendment in the Bill of Rights, which states that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Until this last term the Supreme Court for decades had not struck down a law as outside Congress's powers. As a result many people claimed that the principle that Congress has only limited enumerated powers is a dead letter. But our everyday experience shows otherwise. Everybody knows that we do not turn to the National Government for help with most problems in our everyday lives. We turn to family members, friends, doctors, community or volunteer organizations, and churches; or to local government officials, such as school teachers, police men and women, and others.

The 1994 congressional elections were in large measure about the size of government. And in my view, Mr. President, those elections made one thing very clear: The belief that our National Government should have only limited powers remains alive in the hearts of the people.

The most important efforts of this Congress have been undertaken to respond to the people's demand for prompt and serious action to return the National Government to its proper functions.

The budget that we have been debating for the past few days is the first in many years to take that responsibility very seriously.

The regulatory reform legislation currently on the floor is similarly an effort to impose reasonable and meaningful restrictions on the interventions of regulatory bureaucracies in our lives.

The proposals to abolish Cabinet Departments will likewise get the National Government out of areas where it does not belong.

It is in this context that we should consider the Supreme Court's decision a few months ago in United States versus Lopez and the rather modest legislative proposals I am introducing today. In Lopez, the Supreme Court for the first time in 60 years struck down an act of Congress as exceeding the powers granted it in the Constitution. The Court ruled that a Federal law about guns in schools was beyond Congress' powers because its connection to commerce was too remote.

Now I think there are few higher priorities than reversing the accelerating decline of our schools into armed camps. But, not surprisingly, so do the States, which is why almost all of them already have laws addressing this problem.

Thus this important case is not about whether we should have guns in schools, but about whether policing the schools is principally the responsibility of parents, local governments and States, or the responsibility of Congress. The Court correctly found that the Framers did not assign us that responsibility—which is just as well, since I have no idea how we could possibly be in a position to figure out what is needed in every locality in the country.

The Court's opinion does signal something of a change in approach by the Court to issues of this type. But it is always dangerous to read too much into an individual Supreme Court decision. Moreover, the Court did not give much indication, other than something of a change in attitude, about how it would be approaching future cases.

I do not think we should be disappointed about this. After all, we in Congress's new majority should not leave it to the Supreme Court to do all of the thinking on this subject. The courts, Congress, and the President working together expanded government to its present dimensions. A similar cooperative effort by all three branches will likely be needed to re-establish our central government's status as a government of limited powers.

This will be no easy task. But it is our duty to make limited government as much of a reality in the lives of Americans and American culture 30 years from now as the notion of inexorable expansion was until Ronald Reagan's election as President and the election of the current Congress.

We have begun the difficult task of restoring ordered liberty in a number of ways in this Congress. Our efforts toward a balanced budget promise to return our Government to fiscal responsibility; to make us recognize our duty to pay our bills and refrain from burdening our children with massive debts.

Our regulatory reform measures promise to rein in government agencies by forcing them to conduct real cost-benefit analyses, based on sound science. In this way regulation will be reduced and limited to those that actually will promote the public good.

Our steps toward elimination of unnecessary Cabinet Departments promise to reduce government's interference with our daily lives. By eliminating unneeded Departments we will eliminate bureaucrats' drive to justify their jobs by finding new areas to regulate.

I do not for a minute equate the proposals I am introducing today with these other efforts. I do believe however, that a requirement that we include a statement of what power, granted it by the Constitution, Congress is using in enacting every piece of legislation, will play a modest role in assisting our ongoing reexamination of the role and limits of the National Government.

This requirement will perform three important functions.

First, it will encourage us to pause and reflect about where the law we are considering enacting fits within the constitutional allocation of powers between the Federal Government and the States.

As Justices Kennedy and O'Connor noted in their concurrence in *Lopez*, that is one of our important responsibilities:

It would be mistaken and mischievous for the political branches to forget that the sworn obligation to preserve and protect the Constitution in maintaining the federal balance is their own in the first and primary instance.

A statement of constitutional authority also will put Congress' view of its constitutional authority on the record for the people to judge. This will spur further useful reflection on our part and open up the possibility of conversation with the people on the subject of Federal powers.

Finally, such a statement also will help the courts evaluate the legislation's constitutionality. Legislation that falls within our enumerated powers will more likely be upheld if it contains an explicit statement of its constitutional authority. As important, we will be less likely to allow laws or regulations that overstep proper constitutional bounds to pass out of this Chamber.

In this way we will protect the liberties of our people, the prerogatives of our States and local communities, and the structure of limited government bequeathed to us by our Founders. We will, then, defend that constitutional structure designed to foster virtue in the people, discipline in the government and peace and prosperity in the nation.

I urge your support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the *RECORD*.

There being no objection, the bill was ordered to be printed in the *RECORD*, as follows:

S. 1039

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.**

(a) **CONSTITUTIONAL AUTHORITY.**—This Act is enacted pursuant to the power granted Congress under Article I, section 8, clause 18, of the United States Constitution.

(b) **IN GENERAL.**—Chapter 2 of title 1, United States Code, is amended by inserting after section 102 the following new section:

**“§ 102a. Constitutional authority clause**

“(a) A constitutional authority clause shall follow the enacting clause of any Act of Congress or the resolving clause of any joint resolution. The constitutional authority clause shall be in the following form (with appropriate modifications and appropriate matter inserted in the blanks):

“‘This Act (or resolution) is enacted pursuant to the power(s) granted to the Congress under Article(s) section(s) clause(s) of the United States Constitution.’”

“(b) A similar clause shall precede the first title, section, subsection or paragraph, and

each following title, section, subsection or paragraph to the extent the later title, section, subsection or paragraph relies on a different article, section, or clause of the Constitution from the one pursuant to which the first title, section, subsection or paragraph is enacted.”

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 2 of title 1, United States Code, is amended by inserting after the item relating to section 102 the following:

“102a. Constitutional authority clause.”

By Mr. STEVENS (for himself, Mr. INOUE, Mr. MURKOWSKI, Mr. SIMON, Mr. INHOFE, Mr. DODD, Mr. SIMPSON, Mr. AKAKA, Mr. SANTORUM, and Mrs. FEINSTEIN):

S. 1043. A bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

**NATURAL DISASTER PROTECTION ACT**

Mr. STEVENS. Mr. President, Alaska has three times more earthquakes than California. Since 1938, Alaska has had at least nine quakes of 7.4 magnitude or more on the Richter scale. Alaska's 1965 Good Friday earthquake was one of the world's most powerful, at the magnitude of 9.2 on the Richter scale.

Senator INOUE and I have been studying this matter. We find that over the last two decades Federal taxpayers have paid out over \$140 billion in aid following earthquakes.

Before 1989, the United States had never experienced a disaster costing more than \$1 billion in insured losses. Since then, we have had nine disasters that have cost more than \$1 billion.

Today, Senator INOUE and I introduced a bill to try and reduce the cost to the Federal Government of earthquakes, hurricanes, and floods.

First, the bill will reduce Federal costs by expanding the use and availability of private insurance. The bill also disqualifies those who do not buy private insurance from long-term Federal disaster assistance.

Second, the bill will provide incentives to improve the ability of buildings to withstand disasters and, in doing so, will reduce the risk of injury to people. As one expert put it: “It is buildings, not earthquakes, that kill people.”

And, third, the bill will create a national, privately funded catastrophic insurance pool to shoulder the risk of very large disasters.

Mr. President, the more private insurance individuals buy, the less disaster relief Federal taxpayers must pay. For instance, if this bill had been in place before Hurricane Andrew and California's Northridge earthquake, it would have reduced Federal costs by at least \$5 billion.

Not only will the bill help reduce the costs to the Federal taxpayer, it will

make insurance more available for those in States with higher risk of disaster.

Alaska has three times more quakes than California. Since 1938, Alaska has had at least nine quakes of 7.4 magnitude or more on the Richter scale. Alaska's 1964 Good Friday quake was one of the world's most powerful at a magnitude of 9.2. I lived through that quake. The earth shook for 7 minutes. Most quakes last under 2 minutes. For example, California's Northridge quake lasted about 30 seconds.

The Alaska quake destroyed the economic bases of entire communities. Whole fishing fleets, harbors, and canneries were lost. The shaking generated catastrophic tidal waves. Petroleum storage tanks ruptured and the contents caught fire. Burning oil ran into the bay and was carried to the waterfront by the large waves. These waves of fire destroyed docks, piers, and small-boat harbors. The effects of the 1964 quake were felt as far away as San Diego and Hawaii. Total property damage was \$311 million in 1964 dollars. Experts predict that a quake this size in the lower 48 would kill thousands and cost up to \$100 billion.

About 100 miles off Alaska's coast and 10,000 feet below the sea, the ocean floor is moving eastward. This drifting floor meets the North American seabed at what is called the Yakataga seismic gap. Scientists predict that during our lifetimes, it is likely the seabed will move, generating a major quake and a huge tsunami.

Today, seismic instruments detect between 90 and 120 earthquakes per week in Alaska. Of these, 1 to 3 quakes per week can be felt by people. In May, the citizens of Anchorage awoke in the middle of the night to an earthquake that measured 5.5 on the Richter scale.

It is a mistake, however, to believe that the threat of a major quake is confined to California or Alaska.

Some of America's largest earthquakes have occurred in Tennessee and Missouri along the New Madrid fault. In the last century, four quakes, measuring up to 8.6 on the Richter Scale, struck that area. The shaking rang church bells in Boston 1,000 miles away.

Should a quake of that size hit this area today, FEMA estimates the damage at \$52 billion. One expert noted that the impact of a major quake in the central United States today would only be exceeded in devastation by a general nuclear attack on the Central Mississippi Valley.

This bill is also important for areas prone to hurricanes and floods.

Only 20 percent of the homes in flood plains today have the flood insurance required by current law.

Damage in Florida from Hurricane Andrew was 30 to 40 percent higher because building codes were not properly enforced. The bill will increase the use of private insurance coverage for hurricanes and floods. It will also improve the structures we live in to reduce

damage from these hazards before they occur.

I hope we can move quickly on this bill this year.

Thank you, Mr. President.

Mr. INOUE. Mr. President, I am pleased to announce the reintroduction of the Natural Disaster Protection Act [NDPA] in an effort to create a comprehensive Federal strategy for disaster preparation and planning. I hope that many of my colleagues will join Senator STEVENS and me as cosponsors, so that we can ensure that this bill is considered by the full Senate at the earliest possible opportunity. Time, however, is working against us.

Since our original legislation was introduced in the last Congress, we have experienced time and time again why the bill is so urgently needed. The earthquake which struck Los Angeles in January 1994 is now rated the second most costly disaster in United States history, adding more than \$11 billion to the Federal debt and saddling its victims, most of whom were uninsured, with even greater losses. The tragic earthquake in Kobe, Japan, and the recent California and Midwest floods are just two further examples of nature's unpredictability.

This issue is very important to me particularly since Hurricane Iniki struck my State in 1992, causing several billion dollars in damage and widespread economic disruption. Unfortunately, there are millions of Americans who know firsthand about the destruction and suffering caused by these terrible events.

What troubles me most is that the worst could still be ahead of us. The U.S. Weather Service predicts that this year's hurricane season, which began a few weeks ago, could be worse than 1992, the year of Hurricanes Andrew and Iniki. I am deeply concerned that we are not prepared for another major natural disaster. That is why we are renewing our effort to enact major disaster policy reform.

We simply must insist that all segments of Government, not to mention insurers and homeowners, are doing all that is prudently possible to prevent losses before they occur and to reduce the long term costs of disasters to Federal taxpayers. We need better enforcement of building codes, more thorough mitigation plans, and a funding mechanism that is both predictable and adequate. We must make sure our citizens are protected with adequate insurance so that those at greatest risk from hurricanes, earthquakes, and floods do not end up totally dependent on disaster relief. We must also be certain that such an insurance system is capable of withstanding the worst-possible catastrophes. The NDPA accomplishes these aims and does so with a program that is totally self-funding.

This bill advocates private insurance as an alternative to costly Federal relief. It also creates a national disaster fund to assure the availability of private insurance before and after a major

disaster and promotes better building practices and increased planning for catastrophes. This legislation would encourage States and local governments to adopt building codes and the type of mitigation strategies I mentioned, and it would provide them with funds derived from private industry, not the Federal Government, to implement those measures. The bill would substantially increase participation in insurance programs for the perils homeowners face and provide for a Federal backstop of the private insurance market in the event of a mega-catastrophe which could result in extreme devastation and economic disruption.

The new bill improves upon last year's legislation by relying primarily on the private sector to address insurance availability issues and by modifying Federal disaster assistance programs to reduce the share of disaster relief borne by U.S. taxpayers.

The NDPA enjoys the support of numerous State and local government officials, and organizations representing homeowners, consumers, emergency management and response personnel, realtors, lenders, and the insurance industry. It is clear that Members of Congress are beginning to recognize the problem we face in dealing with these catastrophic events and want to do something about it.

Must we wait until another disaster on the scale of the Japanese earthquake strikes here in America before we do something? We are committed to bringing this important matter before the entire Senate at the earliest possible opportunity. We need to act now, before it is too late. Accordingly, I urge my colleagues to join Senator STEVENS and me in cosponsoring this bill.

By Mrs. KASSEBAUM (for herself, Mr. KENNEDY, Mr. JEFFORDS, Mr. PELL, and Mr. SIMON):

S. 1044. A bill to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes; to the Committee on Labor and Human Resources.

THE HEALTH CENTERS CONSOLIDATION ACT OF 1995

Mrs. KASSEBAUM. Mr. President, I am pleased to introduce with Senators KENNEDY, JEFFORDS, PELL, and SIMON, the Health Centers Consolidation Act of 1995. This legislation consolidates and reauthorizes the community and migrant health center programs, the health care for the homeless program and the health services for residents of public housing program as one streamlined, flexible program authority.

These programs play a vital role in ensuring access to health care services for millions of medically underserved Americans. Consolidating the current, often duplicative authorities will simplify grant application and record-keeping requirements, freeing up time and money better spent on expanding

access to care. The legislation provides the enhanced program flexibility necessary to respond to the unique challenges of providing health care services to medically underserved populations.

This legislation also substantially strengthens the ability of health centers to respond to our nation's changing health care environment through the development of provider networks and health plans to improve access to better-coordinated, more cost-effective services. The ability to form networks and health plans, including managed care plans, is particularly important as states are increasingly moving their Medicaid beneficiaries into managed care plans.

Finally, the Health Centers Consolidation Act responds to the unique challenges of delivering health care services in rural areas. The legislation authorizes and focuses the current rural health outreach grant program on the formation of provider networks, including telemedicine networks, to strengthen the rural health care delivery system, encourage the consolidation and coordination of services on a local and regional basis, and bring access to specialized services to remote rural areas.

By Mr. ABRAHAM (for himself and Mr. COATS):

S. 1045. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, the Museum Services Act, and the Arts and Artifacts Indemnity Act to privatize the National Foundation on the Arts and the Humanities and to transfer certain related functions, and for other purposes; to the Committee on Labor and Human Resources.

#### THE NEA AND NEH PRIVATIZATION ACT

Mr. ABRAHAM. Mr. President, today I introduce my bill to privatize the National Foundation for the Arts and the Humanities. I have sent a detailed memo to all my colleagues regarding this bill, which I would like to enter into the RECORD. The memo sets forth my reasons for designing a privatization plan, how it will work, and why I believe it will work.

Here's a quick summary: Controversy and anger have swirled around the Endowments virtually since their creation. On one side we have constituents who are upset that their tax dollars are subsidizing work that they find aggressively offensive. This includes the work of Mapplethorpe, funded by the NEA, as well as the National History Standards, funded by the NEH. On the other side we have artists and writers who believe the Government is engaging in censorship when their grant proposals are denied or their projects are edited.

The Endowments' troubles are not recent phenomena and they show no sign of dissipating anytime soon.

If we cannot re-create the NEA and NEH in a way that gets the Government out of the vortex of this maelstrom, at some point, the NEA or the NEH are going to fund one more

project so objectionable that the American people are going to take the matter out of our hands. And then the endowments are going to be re-created right out of existence.

My bill provides for the gradual privatization of the endowments over a 5-year period. It will reduce the budgets of the Endowments by 20 percent each year during that period, and also specifically allows the Endowments to use a portion of their budgets for the express purpose of promoting private fundraising activities during the phase-out period. At the end of the 5 years, the Endowment's charter with the Federal Government will end. Finally, as a further inducement to private fundraising, my bill includes a sense-of-the-Senate resolution endorsing changes in the Tax Code to spur charitable giving to the arts and humanities.

The "Endowments"—or, as I envision, the "American Endowment for the Arts and Humanities"—will then be free of Government control either as censors or as tax collectors for controversial artists.

I am confident that private national foundations in support of the arts and humanities can succeed. The people we have heard from in support of the NEA and NEH—art enthusiasts, philanthropists, actors, and singers—will want to contribute to private arts and humanities foundations. Assuming their belief in a national organization supporting the arts and humanities is as ardent as they claim when they lobby Congress, there will be a wellspring of support for private endowments.

I ask unanimous consent that my "Dear Colleague" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### U.S. SENATE,

Washington, DC, July 14, 1995.

Re Privatizing the NEA and NEH: The right way to get government out of arts.

DEAR COLLEAGUE: I invite you to cosponsor my legislation to privatize the National Endowment for the Arts and the National Endowment for the Humanities.

It is beyond dispute that the arts and humanities are of unparalleled importance to a civilized nation. Unfortunately, the federal government's current method of "supporting" the arts is neither substantial nor fair. Amid all the critical accounts on both sides of the debate over the Endowments, it seems to have been lost that these agencies actually contributed surprisingly little to the arts or the humanities in this country.

However sincere is Mary Chapin Carpenter's suggestion that the "Arts are as important as school lunches . . ." a majority of citizens simply do not agree with this view. In a time of extreme pressures on the federal budget, the NEA and NEH's appropriations simply cannot be a priority expenditure. For this reason alone (putting the Mapplethorpe and the national history standards controversies et. al. aside) there needs to be a plan to reduce the taxpayer's role in these national endowments.

This attached memorandum outlines the Abraham legislation to privatize the national endowments for the arts and humanities.

If you would like to cosponsor this legislation, please contact Ann Coulter at 4-3807.

Sincerely,

SPENCER ABRAHAM.

#### I. THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL ENDOWMENT FOR THE HUMANITIES: CURRENT PROBLEMS

##### A. THE NATIONAL ENDOWMENT FOR THE ARTS AND THE NATIONAL ENDOWMENT FOR THE HUMANITIES ARE ORGANIZATIONS IN TROUBLE

It is clear that the NEA and NEH are in trouble. They are in trouble because many people question the need to spend the taxpayers' money on such non-vital programs. Further, in this era of budget austerity where funding for many social programs is being significantly reduced, it is difficult to rationalize full funding for the NEA and NEH. Finally, the activities of the NEA and NEH run against the sensitivities of many American taxpayers who are opposed to seeing their dollars fund projects that they find objectionable. It is this latter concern that has come into focus in recent weeks.

Shortly before the first scheduled Labor Committee mark-up of the NEA and NEH, there were several critical news accounts of the summer schedule at "Highways," an NEA-funded performance art center in California. The theater's brochure listed acts intended "to push the right wing into spiritual contortions." Performances included "Dyke Night," described as "our series of hot nights with hot dykes," and "Boys 'R' Us," similarly billed as "our continuing series of hot summer nights with hot fags." Another number, titled "Not For Republicans," included a comedienne's discourse on "sex with Newt Gingrich's mother."

The NEA's response to public criticism of this NEA grant? "[Highways] is consistent with the Endowment's Congressionally-mandated mission of fostering 'mutual respect for the diverse beliefs and values of all persons and groups,'" wrote the current NEA Chairperson, Jane Alexander, in a letter to various Senators dated June 26, 1995. Alexander went on to describe her alarm, not at Highways' "Ecco Lesbo-Ecco Homo" summer program, but at criticisms leveled at these NEA-funded performances: "I am concerned that once again the Endowment is being criticized for supporting an institution that serves its community well—this time, one that supports the work of homosexual and minority artists . . ." She dismissed criticisms of the "sex with Newt Gingrich's mother" routine as being politically motivated: "I am also concerned that we are being criticized for Highways having presented comedienne Marga Gomez because her stand-up routine pokes fun at the current Congressional leadership."

While much of the public objects to taxpayer-supported performances like these, that is not the only quarter from which opposition to federal funding of the NEA has come. The Progressive Policy Institute, for example, (an offshoot of the Democratic Leadership Council) stated in its 1993 "Mandate for Change" that there should be "no federal role" in the arts. In a Lou Harris poll taken in January, 1995, the NEA was at the top of the list of federal programs Americans would like abolished—ahead of the Department of Housing and Urban Development, Public Broadcasting Service, and the Energy Department. (43% of respondents wanted the Endowment eliminated.)

Long before the "Ecco Lesbo-Ecco Homo" summer program at Highways, there was Mapplethorpe and "Piss Christ" and the performance art of Karen Finley and Ron Athey, to name just a few of the more notorious NEA-funded projects. Provocations like these may be a small percentage overall,

but each such sensational affront adds to the growing list of people irrevocably opposed to the Endowment. Citizens who are offended by having their tax revenues supporting the likes of Mapplethorpe do not forget that offense just because the Endowment manages to avoid funding another offensive project for a short while. And Chairman Alexander's reaction to this latest public outcry demonstrates pretty clearly that the NEA is out of touch with the public's concerns.

The NEH is no less out of touch with the public whose tax dollars it consumes. Through less outrageous—and less suitable for sound-bites—the NEH's projects may well have a longer lasting impact than the NEA's, because they infect American education rather than only its art museums and theaters. The national history standards released last January by a group at UCLA were the product of an NEH grant. Though intended to improve the education of all United States students, so objectionable were the standards that, before the ink was dry, 99 Senators voted in favor of a Sense of the Senate resolution denouncing the standards.

Perhaps there are still enough votes in the Congress to save the NEA and the NEH in their present form for a few more years. But that will not end the disquietude and rancor surrounding the agencies. And that will do nothing to prevent any new NEA or NEH-funded affronts, each one adding to the growing list of citizens opposed to the Endowments. Sooner or later the Endowments are going to fund one more project so offensive that the public will rise up and demand their elimination. And then, there will be no time to assemble an alternative mechanism to fund the arts and humanities on a national level. Many of our States have arts and humanities institutions that are not going to be able to survive a withdrawal of federal funds cold turkey.

We shirk our obligation to the arts and humanities as well as our obligation to the people if we refuse to acknowledge that these are federal programs teetering toward abolition. Now is the time to reconfigure the agencies in a way that is built to last. The following proposal does just that. The proposed bill combines a gradual phase-out of direct federal funding with inducements to privatization, such as earmarking a portion of the funds for private fundraising and proposing additional tax incentives for charitable gifts to the arts and humanities.

#### B. HALFWAY MEASURES WON'T WORK

One thing that the history of the endowments proves is that no matter who runs the organizations, maddening government grants to the arts will continue to be made. Virtually since the Endowment's first grant in 1965, the organization has inspired opposition. In 1967, Congressional hearings were held in response to public outcry over NEA-funded projects. More recently, controversies in the late eighties begot not quietude, but the Ron Athey performance<sup>1</sup> in 1994—long after "Piss Christ." Endowment supporters are whistling past the Endowments' graveyards if they operate on the assumption that the affronts can be entirely eliminated with a series of statutory restrictions. There will be more controversies. Those interested in the NEA have considered a variety of modifications to the Endowment's granting authority intended to circumvent the prob-

lems. Across the board and without question, these are doomed to failure.

1. Eliminating Individual Grants, For Example, Will Not Stem Offensive Projects. A number of the more notorious Endowment-supported projects have, in fact, been made possible by Endowment grants to museums and other institutions, rather than directly to the offending artists themselves. These include NEA grants to the Walker Art Center in Minneapolis and to P.S. 122, a theater in New York City, both of which used NEA grant money to fund Ron Athey's performance. In addition, the Whitney Museum of Art in New York used a portion of its \$200,000 NEA grant to sponsor "Abject Art: Repulsion and Desire in Art," which exhibited excrement, dead animals, and similar objects to make the artistic statement of: degrading the purity of an art museum. These exhibits and others will not be affected by a ban on individual grants.

2. Block Granting Endowment Money To The States Also Fails To Prevent The Use Of Federal Dollars On Dubious Or Potentially Objectionable Art. Indeed, many of the institutions which have taken part in controversial projects are also recipients of monies allocated by state arts councils. Thus, for example, both the Walker and Whitney Museums have been the beneficiaries of state and municipal arts funding, the latter receiving \$134,952 from the New York State government and \$5,000 from the city government in 1994. Since New York will undoubtedly continue to receive a disproportionate amount of Endowment money, taxpayers in Tennessee, Ohio, and Illinois will essentially be subsidizing art in New York. There is no reason to think New York State arts panels will suddenly begin to use Endowment money only to fund that which will play in Peoria.

3. An Across-The-Board Reduction In The NEA and NEH's Budgets Doesn't Make Sense. Some have suggested punishing the NEA and NEH for their irresponsible funding projects by cutting the Endowments' budgets by some arbitrary percentage. But the NEA and NEH are either beneficial in their current structures or they aren't. The better solution is to attempt to preserve both a national arts foundation and a national humanities foundation at appropriate funding levels, but without requiring the taxpayers' involuntary contributions.

4. Direct Federal Funding Of The Arts Forces The Federal Government Into The Thankless Role Of Playing Either Censor On One Hand Or Obscenity-Promoter On The Other. Since the actual monetary value of NEA funding is virtually negligible compared to private giving to the arts, the principal argument for Endowment grants is their tremendous influence. This, however, is a risky role. On one side we have constituents who are upset that its tax dollars are subsidizing work that they find aggressively offensive. And it bears repeating that since 1967—two years after the NEA's creation—its grants have been inciting controversy.

On the other side we have artists who believe the government is engaging in censorship. One recipient of NEA grants, Leonard Koscianski, has written that the NEA "excludes whole categories of art . . . from serious consideration," citing watercolors as one of the categories that has received very few NEA grants. Moreover, the NEA was recently forced to settle a case for \$252,000 brought by four performance artists—Karen Finley, John Fleck, Holly Hughes, and Tim Miller—who claimed they had been denied Endowment grants on political grounds. Many other artists will not even apply for an NEA grant because of the paperwork involved. Reed Zitting, an instructor of theater arts and design at the Interlochen School at Michigan, has observed that the bureau-

cratic necessities of governments are antithetical to the creative processes of art.

5. The More The Congress Tries To Respond To Taxpayer Complaints About Their Money Funding Obscene Art—By Imposing A Variety Of Restrictions On Endowment Grants—The More Artists Will Have Legitimate Grounds To Complain About Federal Government Censorship. Rules such as requiring theaters to submit a complete and immutable schedule of the entire season's events are unworkable, excessive and intrusive. Another proposal has been to jettison seasonal grants altogether. While that measure would provide the federal government with a needed measure of control over government grant money, it would also deprive an important segment of the arts community of any grant money whatsoever. It is simply impossible for the federal government to design an organization to fund the arts staffed with federal bureaucrats that does not in some sense engage in censorship through its regulation. It doesn't help that the NEA has a tin ear with respect to the public's concerns with projects such as Highways' "Ecco Lesbo-Ecco Homo" summer program. Furthermore, the much vaunted power of an NEA grant places the federal government in a highly questionable role: Why should the federal government be the arbiter of what is and is not art and which artists will be famously successful and which will wait tables?

#### C. THE FEDERAL GOVERNMENT'S DIRECT FUNDING OF THE NEA AND NEH ALSO SUBJECTS IT TO CLAIMS OF DISCRIMINATION BY CERTAIN STATES AND AREAS OF THE COUNTRY

Some states' citizens are clearly short-changed by the federal government's current distribution of NEA and NEH grant money. In 1994, for example, New York City alone received about 15% of the NEA's total budget, about 10-20 times the amount the NEA gave certain states. Further, many believe that rural areas are short changed by the Endowments. Privately-funded Endowments remove the government as the decision-maker—and the federal taxpayer as the funding source—from a selection process that inevitably strikes some as unfair.

#### II. HOW THE ABRAHAM BILL WOULD WORK

##### A. MOVING TOWARD PRIVATELY FUNDED ENDOWMENTS FOR THE ARTS

Private Endowments awarding grantees money from private donors will preserve the good things about the Endowment such as the imprimatur of a national organization and the financial support for the arts and humanities. Meanwhile, though, the government will be out of the business of using taxpayer money either to support obscenity or to censor artists.

The Abraham bill would reduce the budgets of the Endowments gradually over a five year period and also would allow the Endowments to use a portion of their budgets for the express purpose of promoting private fundraising activities during the phase-out period.

At the end of five years, the Endowments' charter with the federal government would end. The "Endowments"—or as we suggest, "the American Arts and Humanities Endowment"—would then be free of government bureaucrats either as censors or as tax collectors for the arts. The newly free arts and humanities organizations could reconfigure themselves as a single tax deductible organization, as two separate organizations, or in any manner their private boards of directors deem desirable.

##### B. A PROGRESSIVE DECREASE IN THE NEA AND NEH'S FEDERAL BUDGETS

Using the 1995 fiscal year appropriations as the base line, the Endowment's budgets

<sup>1</sup> Athey's performance consisted of slicing the back of another man with razors, blotting the blood, and sending the bloodied towels over audience members' heads. This caused some consternation among the audience members, many of whom fled the room. Athey and, it was assumed, his artistic companion, are HIV-positive.

would be reduced by twenty percent each year over a five year period. This approach permits a gradual, orderly transition from government-sponsored organs to private entities.

1. A Specific Set-Aside For Fundraising. In addition to these absolute decreases, the Endowments will be authorized to use an amount of their appropriations equal to 10% of the cut amount for fundraising purposes alone. This amounts to 2% of each Endowment's 1995 appropriation the first year, 4% the second year, and so on. Thus, for example, in the first year the NEH will be permitted over \$3.5 million (2% of \$175 million) federal dollars for the sole purpose of encouraging private fundraising on behalf of the humanities endowment.

2. Tax Incentives For Donations To The Arts and Humanities. Finally, the bill would include a Sense-of-the-Senate resolution proposing a return to tax deductions for non-itemizers, elimination of the cap on deductions for charitable contributions, and other tax benefits for charitable donations. Since amending the Tax Code to encourage charitable giving is not within the purview of the Labor Committee, the Sense-of-the-Senate resolution appended to the Endowment Privatization bill would simply make the point that the Committee favors creating additional tax incentives for charitable giving to the arts and humanities (and all 501(c)(3)s), in lieu of direct government funding of the NEA and NEH.

### III. THE ABRAHAM PROPOSAL CAN WORK

#### A. ALTHOUGH RAISING MONEY IS ALWAYS HARD, THE NEA AND NEH BUDGETS ARE A VERY SMALL PART OF THE NATION'S TOTAL ARTS AND HUMANITIES BUDGET

Some have expressed doubt that private donations can take up the slack in government funding. It bears mentioning at the outset then, that the NEA and NEH do not, in fact, constitute a significant proportion of funding for the arts and humanities in this country. It is difficult to isolate "the humanities" for calculating private donations because it encompasses such a wide range of prospective philanthropies—museums, colleges and universities, music academics, writing workshops, to name a few. Private donations to the arts, however, are easily quantifiable.

In 1993, private giving to the arts totalled \$9.57 billion. Meanwhile, the NEA's total budget for 1995 is \$167.4 million. Thus, private giving to the arts in this country dwarfs the NEA's contribution 50 times over. Not only does the NEA's total annual funding of the arts amount to less than 1.7% of private donations to the arts, but it is also less than the states' contributions to the arts. In 1994, state legislatures gave \$265 million to the arts. Perhaps the more striking comparison is to the annual operating budget of the Lincoln Center for the Performing Arts in New York City. Its budget for 1995 is almost twice that of the NEA's: \$316 million. Moreover, looked at from the perspective of the recipient arts organization, the NEA's contributions are still relatively insignificant. Thus, for example, the sources of income for all the country's nonprofit theaters breaks down as follows:

#### B. LEAVING THE TAXPAYER OUT OF THE EQUATION DOES NOT REDUCE A NATIONAL ENDOWMENT'S PRESTIGE.

Since the actual monetary value of arts and humanities funding provided by the NEA and NEH is very small compared to private giving to the arts, the principal argument for NEA and NEH grants is their glamour—the imprimatur of excellence an Endowment grant provides. According to NEA Chairman Jane Alexander, "[T]he prestige of getting a

grant from the Endowment is often critical in leveraging legislatures to provide additional funding." The prestige associated with a grant from a national arts organization will not be lost under a privately-funded Endowment. Indeed, the glamour of an NEA grant will most likely expand because of the private interests involved: Corporate sponsors will want to publicize the results of their philanthropy—as will the privately-funded Endowment itself, in order to attract more private dollars.

#### C. WAYS TO PRIVATELY FUND A NATIONAL ENDOWMENT . . .

1. The Federal Government Can Still Play An Important Role. There are several ways the federal government can help private endowments succeed without direct contributions. These include:

(a.) Tax Code Revisions Designed To Generally Stimulate Charitable Giving Or Specifically Aid The New Foundations. A variety of possible tax code changes could greatly enhance private giving to the new foundations. Possible approaches are:

Reinstituting tax deductions for non-itemizers, as was permitted until the Tax Reform Act of 1986;

Elimination of the caps on charitable deductions; and

Instituting a tax credit of \$50—\$100 for charitable donations to the newly-created private endowments.

(b.) Government Leaders' Involvement In National Fundraising Efforts. Even if the government is not directly funding the NEA and NEH, government officials can play a role in helping the new endowments succeed. For example, a series of Washington fundraising events featuring the President or other highranking government officials can serve as a spur to donations by major donors. Another option would be fundraising appeal letters from prominent arts supporters in government. Finally, government leaders who back the arts can play a very helpful role recruiting major benefactors for the Endowments.

2. Other Private Fundraising Efforts Have Unlimited Potential. Besides the things the government can do to support private Endowments, there is a role for private organizations, individuals and corporations as well. Many organizations will be able to raise money for a private NEA and NEH through a wide array of activities. It also includes several innovative ideas devised as potential unique sources of funding for the endowments by those seeking a solution to this situation.

Below are some ideas to be explored. This list is by no means exclusive but it nonetheless illustrates the private fundraising opportunities that have been used by other charitable causes and which could be employed effectively for the benefit of a private arts and humanities national endowment.

(a.) Fundraising Events.—The actors, artists and musicians who have publicly declared their avid commitment to the NEA and NEH could conduct special concerts or benefits to support the private endowments. Individual entertainers as well as groups of entertainers routinely hold such benefits for various charities and causes. Such star-supported events certainly seem plausible when the beneficiaries are the arts and humanities. Moreover, now that cable television and pay-per-view has penetrated such a substantial percentage of America's households, the potential income from a televised pay-per-view benefit concert featuring some of the greats who have campaigned on behalf of the NEA (Garth Brooks, Kenny G., Michael Bolton, etc.) is phenomenal. Consider this: pay-per-view sports events such as Wrestlemania and heavyweight champion-

ship boxing matches bring in receipts of over \$50 million.

(b.) Special Event Revenues.—Each year, during various televised award ceremonies celebrating the arts such as the Oscars, Emmys, Tonys, and so on, one hears a great deal of support expressed for the NEA and NEH. These programs, which are built around the appearance of entertainers who frequently use these opportunities on camera to promote funding for the endowments, are hugely profitable and generate sizeable revenues for the networks that broadcast them. In light of this—the question is, why not let the Endowments receive some of the profits from these shows? If the artists and entities who make these shows feasible want to help the endowments, these shows constitute a great vehicle.

As an alternative to the endowments receiving a share of the profits from these programs, the artists who appear on them and the academics who support such events could simply turn the shows into pay-per-view programs from which the endowments could receive virtually all of the net profits. This year, for example, the Academy Awards show drew a world-wide audience of over 500 million. If only 5% of that audience was still willing to pay to watch the Oscars in the amount that households across America pay to watch a second-run movie on pay-per-view (\$4.95 in the Washington metro area) the Endowments could generate gross revenue of over \$100 million from the Oscars show alone! Add to that similar revenues from such shows as the Emmy Awards, the Tony Awards, the Country and Western Music Awards and the Grammys and we're talking about total revenue greater than the current funding for the NEA or the NEH.

(c.) Other Collaborative Efforts.—In addition to benefit concerts and awards programs, there are other collaborative efforts through which those who care deeply about the arts—the artists themselves—can make privately funded endowments work. The "We Are The World" recording is a good example of the collaborative good that charitable causes can engender. That recording brought together 45 music superstars to record a single song; the resulting single, album, video, television and radio specials, merchandise and associated enterprises raised over \$60 million for "U.S.A. For Africa." In that so many recording artists are supporters of the National Arts and Humanities Endowments, private entities supporting the arts and humanities would seem to be a natural beneficiary of such collective philanthropy. Certainly, if the musicians who have appeared before Congress to promote the Endowments (the aforementioned Garth Brooks, Kenny G. Michael Bolton etc.) were themselves to collaborate and recruit others for a single recording each year or two, the private Endowments' fundraising events would be hugely successful.

(d.) Paybacks for Commercially Successful Grants/Events.—On occasion, the NEA and NEH have funded projects that become great commercial successes, earning the grantee far more than the amount of the original grant. When this happens, the grantee could be required to reinvest some portion of the proceeds back in the Endowment in return for the original grant money. NEH-sponsored tourism events, for example, have allowed grant recipients to reap financial benefits. According to the NEH's own review, an endowment-sponsored exhibit called "The Age of Rubens" at the Toledo Museum of Art brought in approximately 226,000 visitors benefiting the whole geographic region. Similarly, individual NEA and NEH grantee who are able to bring their creative works to lucrative markets like Broadway have some



moral debt to make the catalyst of their success—NEA and NEH support—more widely available to other artists.

(e.) Traditional Major Donor Fund Raising.—In addition to the ideas listed above, the new private endowments would also be the beneficiaries of traditional philanthropic efforts that other major institutions receive. Certainly, a national organization charged with supporting the nation's arts and humanities would attract large corporate and individual donors who will want to be part of such prestigious organizations. Since private giving to the arts in this country already exceeds \$9 billion a year, an increase of just 1% in this base of support would establish a strong funding foundation for the private endowments.

#### IV. CONCLUSION

Through a five-year privatization of the NEA and NEH, the Abraham bill permits the growth of private giving to the arts (with government-supported fundraising during the transition). The Abraham approach also proposes tax incentives for charitable donations to create broad-based opportunity for private giving; reinstatement of tax deductions for non-itemizers may very well engender increased funding of the arts.

More importantly though, privatization has the distinct advantage of allowing the citizenry to direct those funds more efficiently and without controversy. Simply decreasing federal funding of the Endowments or providing for increased block grants to the states fails to resolve the fundamental problem associated with today's NEA and NEH. By contrast, privatization removes the government from the unwinnable task of balancing censorship and obscenity, once and for all.

Federal bureaucracies on every level are being scaled back or eliminated entirely. Government programs, particularly non-essential ones like the NEA and NEH, that can be replaced with privately-run entities, must be. The manifest support from an array of celebrities and arts patrons for the arts and humanities makes clear that a reconstituted NEA and NEH will thrive. In short, a privately-funded "American Endowment for the Arts" and an "American Endowment for the Humanities" can provide as much support for artists and writers without the attendant, ongoing disputes faced by a government-managed entity.

The people we have heard from in support of the NEA and NEH—art enthusiasts, philanthropists, actors, and singers—will want to contribute to private arts and humanities foundations. Assuming their belief in a national organization supporting the arts and humanities is an ardent as they claim when they lobby Congress, there will be a wellspring of support for private endowments.

#### ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Hawaii [Mr. INOUE] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the trans-

portation fuels tax applicable to commercial aviation.

S. 457

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 457, supra.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded stock to certain private foundations, and for other purposes.

S. 920

At the request of Mr. PRESSLER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 920, a bill to assist the preservation of rail infrastructure, and for other purposes.

S. 959

At the request of Mr. HATCH, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the names of the Senator from New Hampshire [Mr. SMITH], the Senator from Arizona [Mr. MCCAIN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1009

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1009, a bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide in-

creased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

AMENDMENT NO. 1533

At the request of Mr. D'AMATO his name was added as a cosponsor of amendment No. 1533 proposed to S. 343, a bill to reform the regulatory process, and for other purposes.

#### SENATE RESOLUTION 152—STATEMENT OF CONSTITUTIONALITY REQUIREMENT

Mr. ABRAHAM submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 152

*Resolved,*

#### SECTION. 1. CONSTITUTIONAL AUTHORITY.

This resolution is approved pursuant to the powers granted to the Senate under Article I, section 5, clause 2 of the United States Constitution.

#### SEC. 2. CONSTITUTIONAL AUTHORITY CLAUSE IN LEGISLATION.

The Standing Rules of the Senate are amended by adding at the end thereof the following:

"RULE XLIV

"CONSTITUTIONAL AUTHORITY CLAUSE IN LEGISLATION

"1. (a) A constitutional authority clause shall follow the enacting clause of any bill or the resolving clause of any joint resolution. The constitutional authority clause shall be in the following form (with appropriate modifications and appropriate matter inserted in the blanks):

"This Act (or resolution) is enacted pursuant to the power(s) granted to the Congress under Article(s) section(s) , clause(s) of the United States Constitution."

"(b) A similar clause shall precede the first title, section, subsection, or paragraph and each following title, section, subsection, or paragraph relies on a different article, section, or clause of the Constitution from the one pursuant to which the first title, section, subsection or paragraph is enacted.

"2. It shall not be in order for the Senate to consider any bill, joint resolution, amendment, motion, or conference report that does not comply with the provisions of paragraph (1), on the objection of any Senator."

#### SENATE RESOLUTION 153—MAKING TECHNICAL CORRECTIONS TO SENATE RESOLUTION 120

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 153

*Resolved,* That Senate Resolution 120, agreed to May 17, 1995 (104th Congress, 1st Session), is amended—

(1) in section 2(a)(1)(A) by inserting " , except that Senator Frank H. Murkowski shall substitute for Senator Phil Gramm" before the semicolon;

(2) in section 5(b)—

(A) in paragraph (11) by inserting "with the approval of the Committee on Rules and Administration" before the period; and