



**2018 CONGRESSIONAL ARTS HANDBOOK**  
FACTS & FIGURES AT YOUR FINGERTIPS

## THANK YOU TO THE NATIONAL PARTNERS

4A (American Alliance of Artists and Audiences)	College of Fellows of the American Theatre	National Federation of Music Clubs
Actors' Equity Association	Colorado Creative Industries	National Federation of State High School Associations
Alliance for the Arts in Research Universities (a2ru)	Dance/USA	National Guild for Community Arts Education
Alliance of Artists Communities	Department for Professional Employees, AFL-CIO	National Music Council
American Alliance for Theatre & Education	Educational Theatre Association	National Performance Network, Inc.
American Alliance of Museums	Folk Alliance International	National YoungArts Foundation
American Art Therapy Association	Fractured Atlas	New England Foundation for the Arts
American Association of Community Theatre	Future of Music Coalition	New Music USA
American Dance Therapy Association	Grantmakers in the Arts	New York Foundation for the Arts
American Federation of Musicians	Ingenuity Incorporated	NOAH (National Organization for Arts in Health)
American Institute for Conservation of Historic and Artistic Works	International Art Materials Association (NAMTA)	North American Drama Therapy Association
American Music Therapy Association	International Council of Fine Arts Deans	Opera America
Americans for the Arts	League of American Orchestras	Performing Arts Alliance
Americans for the Arts Action Fund	League of Resident Theaters	QuaverMusic
Arts Management Program at American University	Lifetime Arts	Recording Industry Association of America
ArtsGeorgia, Inc.	Little Kids Rock	Samuel French
Association for Enterprise Opportunity	Mid Atlantic Arts Foundation	Screen Actors Guild and American Federation of Television & Radio Artists (SAG-AFTRA)
Association of Arts Administration Educators	Mid-America Arts Alliance	South Arts
Association of Children's Museums	Music Teachers National Association	Stage Directors & Choreographers Society
Association of Independent Colleges of Art & Design	National Alliance for Musical Theatre	The Alliance for Media Arts + Culture
Association of Performing Arts Professionals	National Alliance of Community Economic Development Associations	The MacDowell Colony
Association of Writers & Writing Programs	National Art Education Association	The Recording Academy
Best Principled Solutions LLC	National Assembly of State Arts Agencies	Theatre Communications Group
Carnegie Hall	National Association for Music Education	Theatre Development Fund
CERF+	National Association of Latino Arts & Culture	U.S. Conference of Mayors
Certification Board for Music Therapists	National Association of Music Merchants (NAMM)	War Paints
Chamber Music America	National Council for Traditional Arts	Yerba Buena Center for the Arts
Chorus America	National Dance Education Organization	Young Audiences Arts for Learning

The 2018 Congressional Arts Handbook is current as of February 12, 2018, and can be found online at:  
**[AmericansForTheArts.org/AAD/Handbook](http://AmericansForTheArts.org/AAD/Handbook)**

Arts Advocacy Day is organized by Americans for the Arts and cosponsored by more than 85 national organizations representing thousands of arts, culture, business, civic, and education organizations and individuals nationwide in support of federal policies for the arts and arts education in America.

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## NATIONAL ENDOWMENT FOR THE ARTS (NEA)

### PROMOTING CREATIVITY AND PUBLIC ACCESS TO THE ARTS

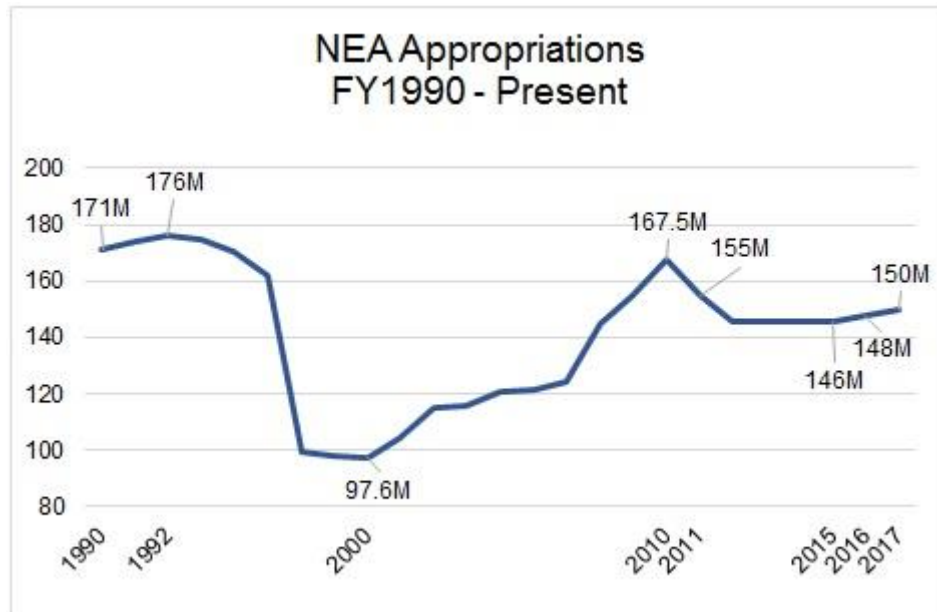
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#### ACTION NEEDED

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We urge Congress to:

- Continue bipartisan support with a budget of \$155 million for the National Endowment for the Arts (NEA) in the FY 2019 Interior Appropriations bill to help preserve access to the cultural, educational, and economic benefits of the arts and to advance creativity and innovation in communities across the United States.



#### THE NEA: AMERICA'S LEAD SUPPORTER OF THE ARTS

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The NEA's mission is to *strengthen the creative capacity of our communities by providing all Americans with diverse opportunities for arts participation*. As stated in the Enabling Legislation for the National Foundation on the Arts and the Humanities Act of 1965, *"The Arts . . . belong to all the people of the United States."*

The NEA supports artistically excellent projects that: celebrate America's creativity and cultural heritage; invite a dialogue that fosters a mutual respect for the diverse beliefs and values of all persons and groups; and enrich our humanity by broadening our understanding of ourselves as individuals and as a society. The NEA is America's chief supporter of the arts and celebrates the arts as a national priority. The arts have the power to transport audiences, unite communities, promote empathy and understanding, and humanize difference.

The Endowment's goals are fulfilled primarily through direct grants, reviewed and recommended by panels of experts, to arts organizations across the country. Between 2012 and 2015 on average, NEA grants:

- Reached 24.2 million adults and 3.4 million children each year attending live arts events through NEA-supported programs. These 80,603 live events included performances, lectures, festivals and exhibitions.
- Reached more than 51 million individuals engaged with the arts through technology in NEA-funded projects.
- Impacted almost 16,000 communities engaged in NEA-supported projects, many benefiting from touring and outreach initiatives.

## THE VALUE OF A FEDERAL ROLE FOR THE ARTS:

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### SUPPORTS PARTNERSHIPS THAT SERVE IMPORTANT COMMUNITIES

- The NEA supports military families through its Creative Forces program, a collaboration with the Departments of Defense and Veterans Affairs to serve the unique and special needs of military patients and veterans diagnosed with traumatic brain injury (TBI) and psychological health conditions (PTSD). In FY 2016 and 2017 each, Congress appropriated a nearly \$2 million increase specifically to expand this military healing arts program. The NEA also partners with Blue Star Families to present Blue Star Museums, which offers free admission to active-duty military and their families, and Blue Star Theatres, which offers free and discounted tickets to active-duty military and veterans and their families, along with access to education programs and special events for military families.
- The NEA funds school- and community-based programs that help children and youth acquire knowledge and skills in the arts. It also supports educational programs for adults, collaborations between state arts agencies and state education agencies, and partnerships between arts institutions and K-12 and college/university educators.

### PROVIDES A HIGH RETURN ON INVESTMENT

- The NEA's budget is \$150 million (under a Continuing Resolution for FY18) — just 0.004 percent of the federal budget and 47 cents per capita.
- The ratio of private and other public funds matching every NEA grant dollar will approach 9:1, far surpassing the required non-federal match of at least one to one. This generated more than \$500 million in matching support and illustrates why federal support for the arts is uniquely valuable.
- The nonprofit arts industry supports 4.13 million jobs in the arts and related industries. The Bureau of Economic Analysis and the NEA together calculated the arts and culture sector's contributions to the gross domestic product at 4.2 percent, which amounts to an impressive \$729 billion.

### BROADENS ACCESS TO ALL

- The NEA is the only arts funder in America, public or private, that supports the arts in 50 states, the District of Columbia, and U.S. territories. Every congressional district benefits from an NEA grant.
- The NEA funds nonprofits throughout the country and has an exemplary partnership with the states, with 40 percent of program funds distributed through state arts agencies. This federal-state partnership supports tens of thousands of grants in communities all throughout the U.S.
- The **Challenge America** category specifically offers support for projects that extend the reach of the arts to populations whose opportunities to experience the arts are limited by geography, economics, or disability.
- The NEA funds **school- and community-based programs** that help children and youth acquire knowledge and skills in the arts. It also supports educational programs for adults, collaborations between state arts agencies and state education agencies, and partnerships between arts institutions and K-12 and college/university educators.
- NEA grants are awarded through national initiatives, including **Art Works** which supports the creation of art that meets the highest standards of excellence, public engagement with diverse and excellent art, lifelong learning in the arts, and the strengthening of communities through the arts. The NEA **Our Town** grant program supports creative placemaking projects that help to transform communities into lively, beautiful, and sustainable places with the arts at their core.



## Legislative Recap of 2017 NEA & NEH Appropriations

*As of February 8, 2018*

### Comparison of FY 2017 to FY 2019 Appropriations for NEA and NEH (in millions of dollars)

	President FY 2017 Request	FY 2017 House	FY 2017 Senate Approps Cmte	FY 2017 Final	President FY 2018 Request	FY 2018 House	FY 2018 Senate Approps Cmte	FY 2018 Final	President FY 2019 Request
NEA	\$149.849	\$149.849	\$148.449	<b>\$149.849</b>	termination	\$145	\$149.849	<b>TBD</b>	termination
NEH	\$149.848	\$149.848	\$148.442	<b>\$149.848</b>	termination	\$145	\$149.848	<b>TBD</b>	termination

### FY 2017-18 Appropriations Timeline

**January 19, 2017**—*The Hill* newspaper reports that transition team advisors to President Trump will call for the **elimination of the NEA and NEH in the President's first budget request** (FY2018), which is expected in February.

**March 16, 2017**—President Trump releases preliminary FY 2018 requests along with FY 2017 priorities. The request includes massive budget cuts (more than \$54 billion in cuts to domestic programs in one year alone), and repeats the request to eliminate the NEA and NEH.

**May 5, 2017**—Seven months into the fiscal year, President Trump signs final FY 2017 funding into law. The law rejects many of the March requests and **instead maintains level funding for the NEA and NEH at \$150 million for each agency**. This bill signing finally closes out work on FY 2017 funding.

**May 23, 2017**—The Trump administration releases their detailed FY 2018 budget request allocating minimal funds to bring about the closure of the NEA and NEH.

**July 18, 2017**—The House Appropriations Committee approves legislation to fund the Endowments at \$145 million each for FY 2018. Although a proposed \$5 million cut, **it fully rejects the termination proposal sought by the administration**.

**September 14, 2017**—The House passes all 12 funding bills on the floor, retaining \$145 million for the Endowments.

**November 20, 2017**—The Senate Interior Appropriations Subcommittee releases their bill to fund the **NEA and NEH at level funding (\$150 million)**.

**February 12, 2018**—The President releases his FY 2019 budget proposal, and again requests termination of the NEA and NEH. The proposal would provide minimal funds to bring about the closure of the agencies.

**March 23, 2018**—The latest federal funding patch expiration date. Congress has passed 5 short-term funding extensions, while continuing to work on finalizing the FY 2018 bills. Final FY 2018 funding decisions are expected by March 23rd.

Please visit [www.AmericansForTheArts.org/AAD/Handbook](http://www.AmericansForTheArts.org/AAD/Handbook) to find the most up-to-date version of the Legislative Recap.

# FUNDING THE ASSISTANCE FOR ARTS EDUCATION GRANT PROGRAM AT THE U.S. DEPARTMENT OF EDUCATION

## IMPROVING ACCESS TO ARTS EDUCATION FOR ALL STUDENTS

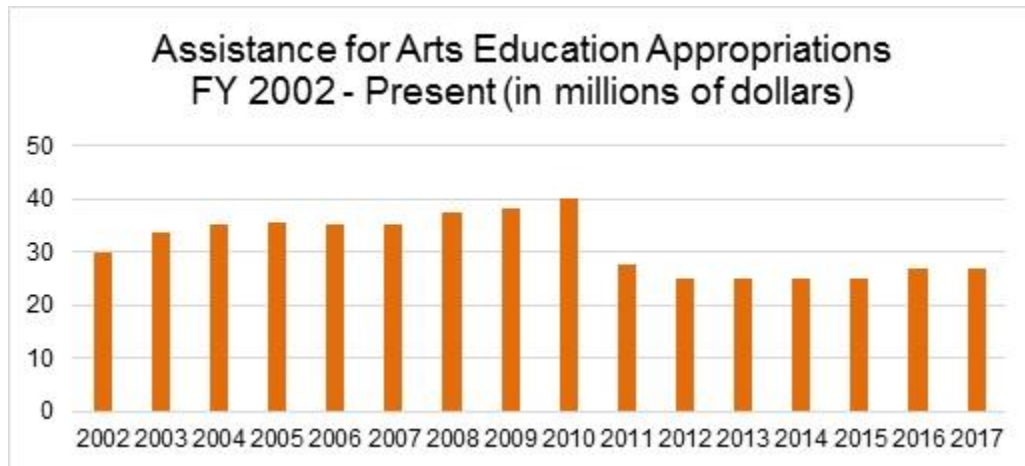
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### ACTION NEEDED

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We urge Congress to:

- Appropriate \$30 million for the Assistance for Arts Education (AAE) programs in the FY 2019 Labor-HHS-Education appropriations bill. The Assistance for Arts Education program is authorized under Title IV of the *Every Student Succeeds Act* (ESSA).



### TALKING POINTS

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- Student learning is strengthened through standards-based arts education and integration of arts instruction into other subject areas supported by **Arts Education Model Development and Dissemination (AEMDD) grants**. The program has funded a total of 185 projects, including rigorous evaluation of arts education strategies that can impact schools and communities nationwide.
- Innovative models to improve instruction for arts specialists and classroom teachers are supported by **Professional Development for Arts Educators (PDAE) grants**. The PDAE grants program has supported over 100 projects that serve as national models for effective arts education professional development.
- The impact of these federal investments is multiplied by the program's **Evaluation and National Dissemination** component. For example, In FY 2009, the program exceeded its performance measure in both mathematics and language arts. In math, 12 percent more students achieved the achievement target goal in the grant program group than in the comparison group. and in Language Arts/Reading, 54 percent more students in the grant program than in the comparison group achieved the target goal. State and local education agencies can adapt these models to provide rigorous arts instruction for all students.
- National level, high-quality arts education projects and programs for children and youth, with special emphasis on serving students from low-income families and students with disabilities, are supported by a **National Program Competition**.

**A reduction below the current level of Arts Education funding would result in under-funding multi-year projects that are midstream.** Grant awards support projects over the course of up to four years. Cuts to funding would place these projects in extreme jeopardy.

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## TALKING POINTS (CONTINUED)

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**U.S. Department of Education directs grants through the Assistance for Arts Education program to strengthen the arts as part of a well-rounded education. Arts Education grants have served more than 230 congressional districts in 33 states, including these examples.**

- The Clayton County, Georgia School District's four year FY 2017 Professional Development grant of \$1.2 million will provide professional development training to fine arts and math teachers designed to improve teacher practice and raise math scores on state tests. Partnering with ArtsNow, Crayola, and the Georgia Institute of Technology, the first year of the project will train all assigned arts (grade 4-9) educators in teacher leadership and math content knowledge specific to the grade levels of their schools.
- Metro Nashville Public Schools was awarded a \$1.2 million FY 2017 Professional Development Grant in a collaboration titled, "Music and Art City" to provide professional development for all visual arts and music teachers at the 55 Title I elementary schools in the district. The grant will also be used to build upon the district's partnerships with the Frist Center for the Visual Arts and Quaver Music, to provide learning opportunities to expand art teachers' knowledge and skills and enhance their instructional practices in the classroom.
- The Highline School District in King County, Washington has partnered with Art Corps to create the four-year \$1.7 million Highline Creative Schools Initiative, an FY 2014 Model Development and Dissemination Grant project that has served a diverse population of 600 sixth-grade students in two high poverty middle schools. Expected outcomes include increased student achievement; increased literacy, visual arts, and theater arts learning; improved school engagement and middle school transition; and strengthened teacher capacity to deliver arts-integrated lessons and assessments.
- The most recent National Program Competition awarded a three-year grant to The John F. Kennedy Center for the Performing Arts to provide arts education programs and resources focusing on pre-K–12. The programs and resources are in three areas: Teaching, Learning, and Partnerships; Performances for Young Audiences; and Career Development for Artistically Talented Young People.

**The U.S. Department of Education can maximize the impact of the direct federal investment in arts education by immediately disseminating information about the outcomes of projects funded by the Assistance for Arts Education grant programs.**

## BACKGROUND

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The Assistance for Arts Education (AAE) program at the U.S. Department of Education is authorized under Title IV of the *Every Student Succeeds Act* (ESSA) and is a continuation of the programs previously authorized under the Elementary and Secondary Education Act as the "Arts in Education" program fund.

ESSA recognizes the arts as essential to a "well-rounded" education. The arts education programs have received consistent bipartisan support from Congress year after year—ultimately winning congressional support annually. The Senate approved \$27 million in support for the Arts Education program fund for FY 2018 making possible a new round of competitive grants. The Administration's FY 2019 budget proposal calls for defunding the Assistance For Arts Education grant program.

# STRENGTHENING ARTS EDUCATION

## HELPING CHILDREN ACHIEVE IN SCHOOL, WORK, AND LIFE

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### ACTION NEEDED

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**We urge Congress to strengthen equitable access to arts education through the Well-Rounded Education provisions of the *Every Student Succeeds Act (ESSA)*:**

- Fully fund (\$1.6 billion) the Student Support & Academic Enrichment Grants under Title IV, Part A.
- Make explicit the opportunity for the arts to help achieve Title I objectives.
- Thoroughly implement the professional development opportunities for arts educators and school leaders in Title II and the expanded STEM program eligibility for the arts in Title IV, Part A.
- Fully fund (\$1.1 billion) the 21st Century Community Learning Centers after-school program.
- Fund the Assistance to Arts Education program at \$30 mil, as outlined in a separate issue brief.

### TALKING POINTS

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- **The arts are included as part of a “Well-Rounded Education” in federal law.** This designation—alongside reading, math, science, and other subjects - is confirmation that the arts are essential to a complete education and belong in the main instructional day. Federal education funding (such as Title I, teacher training, and school improvement) is directed to support all aspects of a well-rounded education, including the arts.
- **There are huge, persistent disparities in access to arts education in the schools.** The 2009–2010 U.S. Department of Education’s Fast Response Statistical Survey - the most recent data collected at the federal level - found that schools with a higher concentration of students in poverty were less likely to offer arts education. In the 2010 National Art Education Foundation-funded study, *NCLB: A Study of Its Impact on Art Education Programs*, 67 percent of the arts educators surveyed reported that art schedules had been impacted by NCLB. Unfortunately, 2014 Indiana University research indicates that elementary students from urban settings, from rural areas, from low income households and students of color do not share the same access to high quality music education as their white, suburban counterparts.
- **The Department of Education’s data collection efforts in all arts disciplines must be strengthened by systematically including pre-K–12 arts education in the School and Staffing Survey, the National Assessment for Educational Progress (NAEP), the Fast Response Survey System (FRSS), and other data instruments.** The Department should provide more timely updates on access to all arts education at multiple grade levels—using such tools as the School and Staffing Survey and the Fast Response Survey System (FRSS). The latest FRSS in the arts was released in 2012, with the next one scheduled to be in the field in 2019. The most recent NAEP in the arts, known as “the nation’s report card,” was released in April 2017. Funding needs to be available for updating the both the FRSS and NAEP Arts Frameworks to include measurements in dance, media arts, and theater, in addition to music and visual arts in order to assess the condition of arts education.
- **Learning in the arts can and should be included in multiple measures of student progress.** Rigorous and varied assessments in all subject areas—including the arts—can produce high-quality learning and motivate students to stay in school. The next generation 2014 National Core Arts Standards serve as a foundation for creating reliable measures of what children know and know how to do in dance, media arts, music, theater, and visual arts. Replicable assessments in grades 2, 5, 8 and three levels of high school are embedded within the 2014 arts standards framework and serve as a resource that educators can adapt to their own curriculum and students. The arts standards’ artistic processes of Creating, Performing/Presenting/Producing, Responding and Connecting are excellent models of performance and portfolio-based measurements.

- **Arts educators should be evaluated upon how well their students learn and perform in their respective subject areas.** Evaluation systems in some states and districts evaluate educators in all subject areas based on standardized test scores in reading and math. Through state implementation of ESSA, teachers should be evaluated and accountable based on their performance in their own subject areas. Evaluation systems should employ valid and reliable measures applied in the context of the number of students taught and the instructional time available, and all observation-based teacher evaluations should be conducted by individuals with adequate training and expertise in the arts.

**A review of the ESSA state accountability plans found that 19 states address access and participation rates in arts education as part of their state accountability and/or reporting systems. To ensure equitable access to a Well-Rounded Education for all students, all state accountability plans should annually document and publicly report the status and condition of arts education and other subjects.** These reports on the status and condition of the arts as part of a complete education included in the development of state longitudinal data systems should include the number and range of course offerings, student enrollment in each subject, pupil/teacher ratios, amount of instructional time, budget allocation, subject teacher certification, full-time equivalent teacher employment, and other measures chosen by the state and significant in the subject area.

- **Congress should fully fund the 21<sup>st</sup> Century Community Learning Centers at \$1.1 billion**, allowing after-school programs to fully embrace the arts as a learning opportunity for all students in and out of the traditional school day.
- **The arts are a key component to successful early childhood programs.** Federal policy includes use of the Creative Arts Expression framework of evidence-based research as central to the implementation of early childhood education program. Similarly, ESSA implementation of Title IX should keep the arts in the definition of “Essential Domains of School Readiness” for pre-school grants.
- **Providing flexibility and supporting educational choices at the federal level should not absolve private schools, or charters, from presenting a full well-rounded education for every child.** According to the National Center for Education Statistics, overall public charter school enrollment increased from 0.8 million to 2.5 million between 2003-2014. Arts education data from Arizona and California show that students in charter schools are significantly less likely to receive an arts education than students in district schools. With the number of charter school students increasing to 5% of all public school students, federal leadership is needed to ensure that all students attending private and charter schools be provided with a well-rounded education in all academic subjects as supported in ESSA.

## **BACKGROUND**

With the passage of the *Every Student Succeeds Act*, the U.S. Department of Education and state departments of education have begun taking up the implementation process by producing new federal regulations and state accountability plans. Education leaders in Congress have pledged to provide oversight as each state sets new directions with expanded responsibilities.

A major change in the law is that, while the *No Child Left Behind Act of 2001* listed the “arts” as a “core academic subject,” that term was discontinued in the *Every Student Succeeds Act of 2015*. The new law lists the “arts” and “music”—alongside reading, math, and a host of other subjects—in the federal definition of a “Well-Rounded Education”. Senate report language described the “arts” as “dance, media arts, music, theatre and visual arts, and other arts disciplines as determined by the State or local educational agency.”

Attached to this issue brief is a paper titled *Arts Education: Creating Student Success in School, Work, and Life*. This statement is intended to serve as a tool for communicating the benefits of arts education to policymakers at all levels as ESSA’s promise is realized across 50 states.

## **STRENGTHENING THE ARTS IN HIGHER EDUCATION**

### **PUTTING STUDENTS ON A PATH FOR AN AFFORDABLE FUTURE**

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#### **ACTION NEEDED**

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**We urge Congress to strengthen access to higher education in the arts through reauthorization of the Higher Education Act:**

- Support efforts to improve the affordability and accessibility of higher education for all students.
- Oppose elimination of the Public Service Loan Forgiveness programs
- Oppose inclusion of provisions that allow higher education institutions to vary their financial aid based on future earning potential.
- Ensure for-profit colleges, a substantial number of which offer arts degrees, are properly monitored to reduce their incentive to maximize profits over student success.

#### **TALKING POINTS**

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- **The number of college arts degrees conferred annually rose steadily from 75,000 to 139,000 from 1997 to 2013 - promising news for business leaders looking for an educated and creative workforce.**  
At the same time, according to the Strategic National Arts Alumni Project (SNAAP) the overall debt levels for arts students have increased substantially among recent graduates (up to five years out), both in terms of the percentage of those with any debt as well as in the amount of debt incurred. Strikingly, 35% of all recent graduates said that debt levels had a “major” impact on their educational and career decisions, compared to only 14% of non-recent grads.
- **Student loans should be a tool for accessing and enhancing education—without limiting career and educational options.**
- **The cost of providing a college degree in the arts, as described by SNAAP reporting, is particularly sensitive to increasing costs.** This is due to the teaching-intensive curricula, low student-teacher ratios, and the added costs of materials and equipment.
- **According to SNAAP data, arts graduates are more entrepreneurial than the general population of higher education graduates.** In 2015, 80% of all respondents to the SNAAP survey reported they currently or in the past had been self-employed or freelanced. Overall 16% of arts graduates have founded a nonprofit or for-profit at some point in their lives. In contrast, only about a third of American workers earn at least some of their income outside a traditional job as an employee with a company, and only 1 in 25 Americans are trying to start a business.
- **The PROSPER Act proposes to eliminate the Public Service Loan Forgiveness (PSLF) program.** Students who went into public services jobs, or specific K-12 teaching jobs, could receive loan forgiveness as part of their service to the public. This elimination proposal includes the TEACH Grant programs, which give additional grant aid to undergraduates who get a bachelor’s degree in hard-to-staff teaching areas, such as special education, STEM and foreign language, and who pledge to work in schools that serve students from predominantly low-income families.

- **Congress enacted the Public Service Loan Forgiveness (PSLF) program with bipartisan support in 2007**, partly to create incentives for motivated and committed individuals to pursue careers in service to the public. PSLF is a vital tool in allowing talented and highly trained employees from all socioeconomic backgrounds to work at organizations that make an impact in their community.
- **The PROSPER bill proposes eliminating several federal aid programs, including the Stafford Loan program.** The bill proposes significant consolidation within the federal aid programs. It eliminates the Federal Supplemental Education Opportunity Grant, which provides \$732 million in aid to 1.6 million students each year. It also ends subsidized Stafford Loans, which do not accumulate interest while the borrower is in school. This change affects 6 million borrowers and would cost students \$27 billion over the next decade.

## **BACKGROUND**

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At the end of 2017, the U.S. House Education & Workforce Committee approved legislation to reauthorize the Higher Education Act. The legislation, H.R. 4508, named the “Promoting Real Opportunity, Success, and Prosperity through Education Reform Act” (the “PROSPER Act”) was introduced and approved by the committee in a period of just a few weeks and seeks to make changes in how student aid is provided, and the appropriate federal role in supporting higher education institutions.

The PROSPER legislation provides a small boost to Pell Grants for certain students and seeks to expand apprenticeships and streamline regulations. However, it would also eliminate subsidized loans, PSLF, and the Supplemental Education Opportunity Grant program while making income-driven repayment slightly more expensive for low-income workers.

Arts advocates are eager to work with Congress on ways to reduce cost, increase accountability, and promote innovation in higher education. These are goals that arts advocates share with the members of the Congressional education committees, however the current PROSPER legislation approved by the House Education & Workforce Committee does not achieve these goals.

While the Senate education committee Chairman Lamar Alexander (R-TN) has called higher education legislation a priority for his committee, the Senate committee has not taken action on reauthorization legislation as of this printing.

## TAX POLICY

### ENCOURAGING CHARITABLE GIVING AND SUPPORTING PUBLIC ACCESS TO THE ARTS

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#### ACTION NEEDED

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We urge Congress to:

- **Reinstate and expand incentives for charitable giving by enacting a universal charitable deduction available to all taxpayers.**
- **Ensure that further tax policy changes will protect nonprofit nonpartisanship and strengthen the capacity of the arts sector to support communities.**

#### TALKING POINTS

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- **Nonprofit arts organizations are an essential part of the broader community of approximately 1.4 million nonprofit 501(c)(3) organizations, working alongside hospitals, educational institutions, food assistance programs, and the full array of charitable organizations.** In recognition of their benefit to the public good, contributions made to 501(c)(3) nonprofits have been tax-deductible since 1917.
- **Tax policy changes directly impact nonprofit services and U.S. jobs.** With essential support from charitable donations, the nonprofit sector boosts local economies and employs roughly 10 percent of America's workforce. The nonprofit sector contributes \$1.1 trillion in services every year and supports 13.5 million jobs.
- **Under comprehensive tax reform legislation enacted in 2017, taxpayers claiming the charitable deduction are expected to fall by more than half, reducing incentives for charitable giving.** While the initial charitable impulse to give comes "from the heart," history has shown that tax law impacts what, when, and how much donors give.
- **Congress can support increased charitable giving by enacting a Universal Charitable Deduction, available to all taxpayers, whether or not they itemize their returns.** A 2016 study by Independent Sector found that 88 percent of voters believe we should make it easier for people to deduct charitable contributions from their taxes.
- **Ticket sales and admission fees alone do not come close to subsidizing the artistic presentations, educational offerings, and community-based programming of nonprofit arts organizations.** Approximately 40 percent of financial support for nonprofit performing arts organizations is derived from charitable giving.
- **The nonprofit arts sector relies on charitable gifts from donors across the economic spectrum.** Donations of all sizes add up to an essential investment that enables nonprofit arts organizations to respond to public needs and form community partnerships through education, artistry, economic development, and social service programs.
- **Charitable giving—including giving to the arts—builds civil society.** At a 2011 Senate Finance Committee hearing on tax reform, Sen. Orrin Hatch (R-UT) asked for comments on the public benefits of contributions to nonprofit arts organizations. The dean of the Southern Baptist Theological Seminary said, "It has to do with what it means to form a citizenry that understands what persons are for, that we're not simply economic units. Giving to the arts, giving to religious organizations, giving to charitable organizations really can serve as a workshop of compassion in demonstrating to our fellow citizens that this is not simply a matter of raw power; that we have obligations to one another, not simply at the bureaucratic level of government, but as members of civil society."
- **Donated works of art are critical to building and maintaining collections at our nation's art institutions.** Deductions for gifts of property worth over \$5,000 require an independent appraisal to ensure proper valuation. Tax reform bills written in both the 113<sup>th</sup> and the 115<sup>th</sup> Congress did not propose any changes to the existing deduction or the model enforcement system administered by the IRS.



- **Nonprofit 501(c)(3) organizations should remain protected from partisanship.** Repealing the Johnson Amendment would pressure charitable organizations to take sides in partisan political campaigns and would erode the public trust in organizations that exist to serve community needs.
- **The nonprofit sector is committed to high standards of governance and accountability, and should be protected from unnecessary requirements that divert resources from essential nonprofit services.** As further tax policies are crafted, Congress must ensure that provisions related to nonprofit administration and reporting requirements do not inhibit service to communities.

## BACKGROUND

**Reaching the Full Potential of the Charitable Deduction:** While the comprehensive tax reform law enacted in 2017 preserves the charitable deduction for those who itemize their tax returns, the number of itemizers is expected to fall dramatically as the standard deduction is nearly doubled under tax reform. Charitable giving has been projected to decline by up to \$13 billion per year if only 5% of taxpayers itemize their returns, prompting advocates to seek a "universal charitable deduction" available to non-itemizers. The House and Senate tax reform bills did not include such a provision to safeguard against potential drops in giving, despite interest in both chambers. Senator James Lankford (R-OK) has introduced S. 2123, the [Universal Charitable Giving Act](#), and Rep. Mark Walker (R-NC) has introduced H. R. 3988 the [Universal Charitable Giving Act](#) in the U.S. House of Representatives, which would provide non-itemizers with a tax deduction for charitable giving of up to roughly \$4,000 per individual. Senator Debbie Stabenow (D-MI) and Ranking Finance Committee Member Ron Wyden (D-OR) offered an amendment to create a universal charitable deduction as the Senate Finance Committee considered its bill, which was voted down along with all other amendments offered by minority Committee members. Nonprofit arts organizations, along with the broader nonprofit and philanthropic communities, join together in urging Congress to reinstate and expand tax incentives for charitable giving by creating a universal charitable deduction, available to those who do not itemize their tax returns.

**Maintaining Nonprofit Nonpartisanship:** The House tax reform bill would have allowed nonprofits supported by tax-deductible contributions to endorse candidates for office, removing the protection in law (called the Johnson Amendment) that prevents nonprofits from being pressured into partisan activity. While repeal was not included in the final tax reform bill, the threat still remains as similar repeal efforts surface in the context of appropriations bills. The broad charitable, religious, and philanthropic communities have come out in strong opposition to repeal of the Johnson Amendment.

**Protecting the Public Value of the Arts:** Some have suggested that gifts to education, research, cause-related organizations, (e.g., the environment, animal welfare, etc.) and the arts should receive different treatment than do gifts to human services. Setting a hierarchy of charitable causes is detrimental and discriminatory to the arts, and is not supported by the broader nonprofit sector. "The current tax deduction for charitable giving should either be preserved or modified only in ways that will: strengthen incentives to give; respect the freedom of individuals to determine the causes and organizations they participate in and support and treat those choices equitably; and encourage all individuals to give more to communities and causes through charitable organizations." (Independent Sector, 2012.) The nonprofit arts have always been eligible for the charitable deduction in keeping with this nation's 100-year old tradition of incentivizing taxpayers to give to causes that they believe will benefit the public good.

# **TAX FAIRNESS FOR ARTISTS AND WRITERS**

## **STRENGTHENING THE CREATIVE SECTOR AND PROVIDING PUBLIC ACCESS TO AMERICA'S ARTISTIC HERITAGE**

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### **ACTION NEEDED**

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#### **We urge Congress to:**

- **Enact the Artist-Museum Partnership Act (H.R. 1830, S. 931), which would allow artists to deduct the fair market value of their work when they donate it to charitable collecting institutions.**
- **Maintain the qualified performing artist tax deduction and reinstate deductions for unreimbursed employee business expenses.**
- **Maintain artist eligibility in the Low-Income Housing Tax Credit program.**
- **Preserve the Historic Tax Credit, which has saved over 42,000 buildings that form the historic fabric of our nation.**
- **Maintain the income tax exemption for private activity bonds, often employed to finance cultural infrastructure projects that benefit the public.**

### **TALKING POINTS**

#### **Fair Market Deduction for Artists' Donations**

- Most museums, libraries, and archives acquire new works primarily through donations. However, artists, writers, choreographers, and composers—unlike collectors—have no financial incentive to donate their works because they cannot claim a tax deduction for the work's fair market value. Rather, they can deduct *only the value of materials*, such as paint and canvas. As a result, works of local, regional, and national significance are sold into private hands and may never come into the public domain.
- If more works of contemporary, living artists were available to the public, emerging artists, visual artists, performers, scholars, and the public at large would benefit from this access and draw inspiration from these current pieces. Collectively, these works constitute an important part of America's heritage.
- The Artist-Museum Partnership Act would allow creators of original works to deduct the fair market value of self-created works given to and retained by a nonprofit institution. It would encourage gifts of visual art, such as paintings and sculptures, as well as original manuscripts and supporting material created by composers, authors, and choreographers.
- Collectors have the right to deduct the fair market value of gifts that they donate. The creators of those works should have the same right when they donate their works. *It is only fair.* Furthermore, when artists die, works of art in their estate are taxable at their fair market value.
- A report prepared for Congress by the National Endowment for the Arts at the request of Sen. Patrick Leahy (D-VT) and former Sen. Robert Bennett (R-UT) demonstrates how current law impacts artists and writers and undermines the ability of cultural organizations to preserve our nation's heritage.

#### **Tax Deductions for Artists' Expenses**

- Tax reform signed into law in 2017 (P.L. 115-97) preserved the long-standing "above the line" tax deduction for job-related expenses of performing artists who work for two or more employers and have related expenses that are more than 10% of their performing arts income. Although the income cap of \$16,000 is grossly out-of-date (dating to 1986 and never adjusted for inflation), this provision helps some artists pursue their passion to the benefit of audiences everywhere.

- Across occupations, P.L. 115-97 eliminated the opportunity to deduct unreimbursed employee business expenses that exceed 2% of adjusted gross income. For artists who are employees, this means that the costs of supplies, instruments, professional dues, and other expenses essential to employment are no longer tax-deductible.

### **Low-Income Housing Tax Credit (LIHTC)**

- The LIHTC program has preserved existing affordable housing and built new affordable housing nationwide, including almost 3 million new housing units. Some of this housing brings artists into city-centers to preserve and support the cultural community, and helps address vacant industrial properties, restores community access, and promotes economic growth.
- Senate revisions to H.R. 1 proposed to eliminate artist eligibility from the program. Fortunately, the proposal was dropped from the final bill signed into law.

### **Historic Tax Credit (HTC)**

- For over three decades, the HTC has been a widely used redevelopment tool for cities, towns, and rural communities across the country. It has a proven track record of stimulating economic growth and creating jobs through public-private leveraging opportunities.
- Through the life of the program, the HTC has preserved more than 42,000 buildings, expanding cultural access and preserving American heritage. P.L. 115-97 preserved the 20 percent credit, but eliminated the 10 percent credit for pre-1936 buildings.

### **Private Activity Bonds**

- State and local governments use private activity bonds to provide financing at lower borrowing costs, enabling construction of cultural infrastructure projects like museums and concert halls, and also hospitals, port authorities, and housing projects.
- Nonprofits have used tax-exempt private activity bonds to obtain lower-cost financing for such projects that provide a benefit to the public. P.L. 115-97 preserved the provision.

### **BACKGROUND**

As work to enact comprehensive tax reform occurred in December 2017, numerous provisions important to cultural institutions, nonprofits, and individual artists cropped up. Some favorable provisions were enacted, others weren't included, and some harmful provisions made it into the final bill, as outlined above. One of the long-sought-after provisions not included was the Artist-Museum Partnership Act, a proposal that has been repeatedly introduced in Congress for over 15 years to correct an inequity for artists that also harms public access to living artists' works of art.

For many years, artists, writers, and composers were allowed to take a fair market value deduction for their works donated to a museum, library, or archive. In 1969, however, Congress changed the law, and as a result the number of works donated by artists dramatically declined. *The effect of this legislation was immediate and drastic.* As just one example, the Museum of Modern Art in New York received 321 gifts from artists in the three years prior to 1969; in the three following years, the museum received 28 works of art from artists—a decrease of more than 90 percent. The Senate has passed artists deduction legislation five times in previous years, but the bills have not been reviewed by the House.

**The arts community seeks support for provisions that would strengthen the creative sector in upcoming tax technical correction bills or other future relevant legislation.**

**OFFICE OF MUSEUM SERVICES (OMS)**  
PROMOTING LIFELONG LEARNING AND PROTECTING OUR NATIONAL HERITAGE

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**ACTION NEEDED**

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**We urge Congress to:**

- **Support full funding for the Office of Museum Services (OMS) within the Institute of Museum and Library Services (IMLS).**
- **Sign appropriations letters being circulated by Senator Gillibrand (D-NY) and by Representatives Tonko (D-NY), Lance (R-NJ), McKinley (R-WV), and Slaughter (D-NY).**
- **Enact the Museum and Library Services Act of 2017 (S.2271), which would reauthorize IMLS.**

**Office of Museum Services Appropriations, FY 2005 to present (in millions of dollars)**

<b>Fiscal Year</b>	<b>'06</b>	<b>'07</b>	<b>'08</b>	<b>'09</b>	<b>'10</b>	<b>'11</b>	<b>'12</b>	<b>'13</b>	<b>'14</b>	<b>'15</b>	<b>'16</b>	<b>'17</b>
Appropriation	31.8	31.8	31.4	35.0	35.0	31.5	30.9	30.9*	30.1	30.1	31.3	31.7

\*This total was reduced to \$29.2 million through sequestration under the Balanced Budget and Emergency Deficit Control Act as amended by PL 112-240. Figures above are not adjusted for inflation and do not include program administration. Source: IMLS.

**TALKING POINTS**

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**OMS enhances museums' economic impact.**

- Museums are economic engines, supporting more than 726,000 jobs and annually contributing \$50 billion to the U.S. economy and \$12 billion in annual tax revenue at all levels of government.
- OMS funding--which supports all types of museums including art, history, science, children's, specialized institutions, and living collections, such as zoos and aquariums--plays a significant role in this economic impact by helping museums reach more visitors and spur community development.

**OMS advances the role of museums in lifelong learning and as key partners in education.**

- Museums receive approximately 55 million visits each year from students in school groups, with art museums alone reaching approximately 40,000 public, private, charter, parochial, magnet, and home schools spanning nearly every congressional district.
- The educational role of museums is at the core of their service to the public. They spend over \$2 billion annually on education programming, roughly three-quarters of which is at the K-12 level.
- Through its 21<sup>st</sup> Century Skills initiative, OMS gives learners tools they will need in a modern economy: critical thinking, creativity, numerical literacy, problem solving, innovation, and communication skills.
- Museums often tailor educational programs in coordination with state and local curriculum standards.

**OMS helps museums care for their collections.**

- Museums care for more than 1 billion objects. The 2005 *Heritage Health Index*, published by the Institute of Museum & Library Services and the National Endowment for the Humanities, together with support from foundations, concluded that immediate conservation action is needed to prevent the loss of millions of artifacts. An updated survey due this year is expected to show collections in an equally urgent state of need.

## **BACKGROUND**

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Dedicated to sustaining a nation of learners, the Office of Museum Services at the Institute of Museum and Library Services awards grants to museums to enable them to carry out educational programs, reach new audiences, and care for their collections. The agency supports museums as core providers of learning, both directly and in conjunction with schools, families, and communities.

IMLS has been regularly reauthorized by Congress with broad support, most recently in 2010 with a funding authorization of \$38.6 million for OMS. Senators Reed (D-RI), Cochran (R-MS), Gillibrand (D-NY), Collins (R-ME), and Murkowski (R-AK) have introduced the Museum and Library Services Act of 2017 (S.2271), legislation that would reauthorize IMLS for six years and which contains many provisions supported by the museum field. The Administration's FY 2019 budget proposals calls for termination of the Institute for Museum and Library Services.

# **CORPORATION FOR PUBLIC BROADCASTING**

## **SUPPORTING PUBLIC BROADCASTING AS PART OF OUR NATIONAL ARTS INFRASTRUCTURE**

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### **ACTION NEEDED**

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#### **We urge Congress to:**

- **Maintain current funding levels of \$445 million for the Corporation for Public Broadcasting.**
- **Fully fund public media interconnection (\$55 million)**

### **THE VALUE FOR AMERICANS**

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- Public broadcasting, which is accessible to all Americans, reaches more than half of all Americans every month, and the audience is growing. Over the course of a year, 79% of all U.S. television households - and nearly 200 million people - watch PBS. Each week, 36.6 million people listen to public radio.
- 170 million Americans connect through 350 public television stations, almost 1300 public radio stations, thousands of online services, and in-person community events.
- Public broadcasting is local. Stations are locally licensed and governed, locally programmed, and locally staffed. In many rural areas, public broadcasting is the only source of free, locally managed news, arts, and cultural programming.
- Local public stations air music and arts programming that is not available on commercial radio and television, preserving and advancing America's unique cultural heritage.
- Notably, public radio features diverse genres and traditions that are less commonly found on commercial stations, including classical, folk, bluegrass, jazz, and blues.
- Public radio stations are also often the first to air emerging, independent artists in the earliest stages of their careers.
- Local public stations also have long standing partnerships with local music venues and performing arts societies, helping to extend the reach of artists in communities throughout the country. Local public television and radio stations are an integral part of the "cultural infrastructure" that supports the music economy in America today.
- If CPB funding is reduced, hundreds of America's rural communities would lose their best (and sometimes only) source for arts and culture programming, many of whom might never have the opportunity to experience arts and culture programming otherwise.
- At a time when funding for music and arts in our schools is being cut, public broadcasting helps keep the arts alive for generations of children—today and for years to come.

### **FUNDING FOR AMERICA'S PUBLIC BROADCASTING**

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- The federal portion of the average public station's revenue is approximately 10–15 percent. For smaller stations serving rural, minority and other underserved communities, CPB's investment can represent as much as 40 percent of their budget. Stations leverage this seed money to attract investments from state and local governments, universities, businesses, and their local viewers and listeners. For every federal dollar invested through CPB, stations raise more than \$6.00 on their own. The federal investment in public broadcasting is a tiny portion of the federal budget—only one hundredth of one percent (.01 percent).
- If federal funding were to disappear, stations would have to raise approximately 200 percent more in private donations to replace the federal investment. This is because CPB, in addition to direct payment to stations, pays for the system's technical backbone, copyright and other fees, and major investments in national content from which all stations benefit.
- If funding is cut, Americans would pay a major price—losing enriching, thought-provoking content that broadens people's horizons, introducing citizens to new artists, cultural programming, and ideas.

## **FUNDING FOR AMERICA'S PUBLIC BROADCASTING (CONTINUED)**

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- The vast majority of funding through CPB goes directly to local public broadcast stations in the form of Community Service Grants.
- In FY 2012, public broadcasting funding was cut by a total of \$56 million. Public broadcasting absorbed further cuts of approximately 5 percent, or \$22 million, as part of the 2013 sequestration. These cuts have a direct impact on communities across the nation.

### **WHY INTERCONNECTION IS ESSENTIAL:**

- Using satellite and digital technologies, public media interconnection allows stations to send & receive programming, and also to receive and distribute Presidential-level information from FEMA's Emergency Alert System.
- In 1988, Congress authorized public media interconnection system as a separate budget item. Since then, Congress has appropriated funding to maintain or replace this system in 10-year cycles, ensuring that the system is cost-effective, efficient, and reliable in the event of emergencies.

# THE CREATE ACT

## SUPPORTING ARTISTS, ENTREPRENEURS, AND THE CREATIVE ECONOMY

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### ACTION NEEDED

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#### We urge Congress to:

- **Cosponsor the CREATE Act (S.661, H.R. 1649) in order to invest in the country's workforce and creative economy; to recognize artists, entrepreneurs, and nonprofit arts organizations as contributors to the small business community; and support the creative economy through federal programs and actions.**

### TALKING POINTS

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#### STRENGTHENING FEDERAL POLICY TO SUPPORT THE CREATIVE ECONOMY

The Comprehensive Resources for Entrepreneurs in the Arts to Transform the Economy (CREATE) Act aims to serve more thoroughly the people, places, and programs that make our nation's creative economy prosper in all its cultural, social, and commercial forms. The legislation outlines similar steps to better invest in our country's workforce and creative economy.

This sweeping legislation expands on the research of numerous economic studies. A 2017 Bureau of Economic Analysis study found that arts and cultural production contributed \$729 billion to the U.S. economy (4.2% of GDP), a 32.5% increase since 1998. The Arts and Cultural Production Satellite Account (ACPSA) is the first federal effort to provide in-depth analysis of the sector's contributions to the economy. Additional sector studies include the Americans for the Arts' *Arts and Economic Prosperity Study*, and *Creative Industries* reports.

Through 13 provisions that make minor adjustments to existing federal programs, the CREATE Act takes steps to better invest in our country's workforce and creative industries, while empowering the entrepreneurial spirit of artists and encouraging their role as contributors to the small business community.

Primarily, the bill aims to support the people who comprise the creative economy—artists and creative entrepreneurs—by:

- Expanding programs at the Small Business Administration (SBA) to increase micro-loans, business loans, and technical assistance for artists;
- Requiring the Economic Development Administration (EDA) and U.S. Department of Agriculture's Rural Development Administration ensure that traditional economic
- development tools, such as incubators and grant programs, support the creative economy throughout the country;

### TALKING POINTS (CONTINUED)

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- Improving the visa processing time for foreign guest artists and U.S. nonprofit arts organizations.
- Ensuring access to FEMA's disaster relief assistance for self-employed workers, like artists, impacted by natural disasters.



The CREATE Act also supports creative community development, improving the places each of us call home through:

- Developing a model to promote the creative arts in local economic initiatives, such as cultural district planning;
- Creating an Artist Corps to increase national service through the arts, as called for in the *Serve America Act*.

Lastly, the bill seeks to amend and enhance federal tax policies surrounding the creative economy that were not addressed in the tax reform bill:

- Modifying the rules to encourage charitable contributions of fractional gifts;
- Lowering the capital gains tax pertaining to art to make it uniform; and
- Allowing artists to take an income tax deduction of the fair market value of their work when making a charitable contribution.

## BACKGROUND

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On Arts Advocacy Day 2017, Sen. Tom Udall (D-NM) and Rep. Debbie Dingell (D-MI) reintroduced legislation to strengthen the creative economy. Entitled *Comprehensive Resources for Entrepreneurs in the Arts to Transform the Economy (CREATE) Act* (S.661, HR 1649), the comprehensive bill aims to better support our nation's creative economy and builds off of research of numerous economic studies.

The bill, as introduced, has three titles: 1) Support for artists and entrepreneurs; 2) Support for the creative economy, and 3) Creative community development.

Provisions include direction that the U.S. Small Business Administration (SBA) works with micro-lenders, traditional lenders, and regulators to ensure that artists and entrepreneurs have access to micro-loans and that loan program criteria are not discriminatory toward arts-related businesses. There is also a requirement that the Economic Development Administration (EDA) and Rural Development Administration ensure that traditional economic development tools, such as incubators and grant programs, support the arts industry. The legislation also includes a demonstration project to promote the creative arts in local economic planning.

Support to artists trying to get back on their feet after a disaster such as Hurricanes Harvey and Maria impacting Florida, Texas, Louisiana, and Puerto Rico and wildfires in the western states.

# CULTURAL EXCHANGES THROUGH THE U.S. DEPARTMENT OF STATE

## STRENGTHENING TIES BETWEEN THE UNITED STATES AND THE WORLD

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### ACTION NEEDED

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We urge Congress to:

- **Appropriate \$115 million to the Office of Citizen Exchanges within the State Department's Bureau of Educational and Cultural Affairs within the FY 2019 State and Foreign Operations appropriations bill.**
- **Direct the State Department to dedicate increased resources to, and increase operational capacity within, the Cultural Programs Division to strengthen its ability to oversee grants and programs. Despite increases overall for the Office of Citizen Exchanges—the Cultural Programs Department is funded at lower levels now than five years ago, including competitively awarded programs and those run by the State Department.**
- **Encourage the State Department to evaluate and publicly report on the impact, value, and success of arts diplomacy as part of its strategies to build cross-cultural understanding.**

**Office of Citizen Exchanges Annual Appropriations, FY 2010 to present (in millions of dollars)\***

FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY18
\$102	\$95.4	\$99.4	\$96	\$101	\$100	\$102	\$111.4	TBD

*\*These amounts represent the total funding for the Office of Citizen Exchanges, which includes a variety of exchange programs, including sports and youth programs. Federal budgets do not indicate totals for these individual programs.*

### TALKING POINTS

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- **Policymakers and diplomacy experts agree that cultural exchange enhances international understanding.**
  - A January 2017 report from the nonpartisan Center for Strategic and International Studies states that while the U.S. has invested heavily in hard power tactics to fight terrorism, "it has overlooked the soft power necessary to blunt the appeal of extremist ideologies." The report also states that public diplomacy "requires a toolkit of information, cultural, and educational activities and is not defined by one particular program," and that it is important to understand the "role that [public diplomacy] as a whole plays in our national security."
  - At South By Southwest in 2014, U.S. House Homeland Security Committee Chairman Michael McCaul (R-TX), said, "I think Western music could have an influence in countries where people otherwise don't want to listen to us. We need a combination of hard and soft power, and I think the music piece goes to that soft power idea."
  - All 14 of the cultural diplomacy programs are implemented through public-private partnerships. In 2016, the estimated costs of outbound, short-term programs, which include American Film Showcase, American Music Abroad, Arts Envoy Program, and DanceMotion USA was \$8.420 million. While this primarily pays for travel for U.S.-based artists, each beneficiary has the potential to connect with tens of thousands of people overseas.
  - According to ECA, 85,000 participants attended a concert and/or interacted with American Music Abroad musicians in 2016. And in 2013, cultural programs reached 9 million foreign participants.

**Increased funding and operational capacity for the Cultural Programs Division will strengthen exchange and collaboration in the arts and culture fields that build bridges among people of different countries, cultures, and faiths.**

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## TALKING POINTS (CONTINUED)

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- According to a January 2017 report released by the State Department's U.S. Advisory Commission on Public Diplomacy, public diplomacy programs receive only 2% of the entire State Department and USAID FY2016 planned budget.
- A review of 29 studies on public diplomacy in 2005 identified the most popular recommendation for public diplomacy reform was to increase U.S. exchange programs. The studies were compiled by the nonpartisan Congressional Research Service.
- An October 2009 report by the New York University Brademas Center called for America to have a renewed role in cultural exchange and cultural diplomacy. "To these ends, [the] report recommends that international arts and cultural exchanges be integrated into the planning strategies of U.S. policymakers as a key element of public diplomacy. History has proven that robust public diplomacy is essential to U.S. national security and the promotion of American interests around the globe. The arts community has observed first-hand the value of international artistic exchanges in promoting moderation and tolerance among widely diverse religious and cultural groups."
- **Cultural exchange supports U.S. industry and employment.**
  - According to the National Governors Association's report, *How States Are Using Arts & Culture to Strengthen Their Global Trade Development*, state governments find that including artistic and cultural exchanges in their international trade and business development serves to expand trading relationships with other nations and open markets abroad as a complement to more traditional efforts to generate exports.
  - International exchange prepares Americans for success in the global economy. Seventy-three percent of U.S. employers put significant value on international experience when hiring, according to a study from the British Council and NAFSA: Association of International Educators.
  - Exchanges bring resources to U.S. communities. Virtually the entire State Department exchanges budget is spent on American participants or in the United States.

## BACKGROUND

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Support for cultural exchange and cultural diplomacy has never fully recovered from the elimination of the former United States Information Agency (USIA) and the USIA's Arts America Program. Before USIA was dismantled in 1999, the agency administered educational and cultural exchanges; international radio, television, and film broadcasting; and extensive information programs.

The Bureau of Educational and Cultural Affairs (ECA) at the State Department is responsible for the public diplomacy activities of the United States, including international cultural exchange programs. Within ECA, the Cultural Programs Division focuses on cultural diplomacy, exchange, and collaboration by sharing the rich artistic traditions of the United States. The Cultural Programs Division provides grant opportunities to U.S. nonprofits for cultural exchange activities; residencies, mentoring, and training programs; programs that are carried out overseas by or under the sponsorship of U.S. Embassy public diplomacy offices; and presentations at major international visual arts exhibitions and cultural centers.

In 2013, the State Department facilitated 327 arts diplomacy projects in 132 countries and territories, reaching 9 million foreign participants. An additional 102 Arts Envoy programs were completed in 73 countries.

Congress has continued to demonstrate bipartisan support in recent years for cultural exchange programs, as demonstrated in both the Senate and House-passed budgets for the State Department, which supported funding the Office of Citizen Exchange at its current levels. The Administration's FY 2019 budget calls for a large cut to the Educational & Cultural Affairs budget, from \$630 million to \$159 million.

For a complete listing of programs, please visit: <http://exchanges.state.gov/us/special-focus-areas>

## IMPROVING THE VISA PROCESS FOR FOREIGN GUEST ARTISTS AT U.S. CITIZENSHIP AND IMMIGRATION SERVICES AND STATE DEPARTMENT

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### ACTION NEEDED

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We urge Congress to:

- **Re-introduce and enact the Arts Require Timely Service (ARTS) provision, which will require U.S. Citizenship and Immigration Services (USCIS) to reduce the total processing time for petitions filed by, or on behalf of, nonprofit arts-related organizations.**
- **Take steps, in cooperation with the Administration, to make immediate improvements at USCIS and State Department so that artist visa processing will be accessible, reliable, and efficient.**

### TALKING POINTS

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- **American arts organizations and artists—in communities large and small across our country—provide an important public service and advance international diplomacy by presenting foreign guest artists from across the globe in performances, educational events, and cultural programs that are highly valued by U.S. audiences.** International cultural exchange uniquely supports a diversity of viewpoints and contributes to international peace and mutual understanding. The United States should be easing the visa burden for nonprofit arts organizations engaging foreign guest artists, not increasing it.
- **The ARTS provision has a long history of strong, bipartisan support.** Both the House and Senate have signaled bipartisan support for improving the artist visa process. In February 2016, Sens. Orrin Hatch (R-UT) and Patrick Leahy (D-VT) re-introduced the ARTS provision as S. 2510, which had previously been included in the 2013 Senate comprehensive immigration reform bill. Prior to that, the provision was included in the 2006 and 2007 comprehensive Senate immigration reform bills, and the full House approved a stand-alone version of the measure, H.R. 1312, in April 2008.
- **The inconsistency of the U.S. visa process for foreign guest artists—as well as broad travel restrictions that hinder cultural exchange—has harmful results for everyone.**
  - ***The absence of international guest artists costs American artists important employment opportunities.*** If an international guest artist cannot obtain a visa in time to make a scheduled performance, then the many American artists who were scheduled to work alongside the guest artist may lose a valuable and much-needed source of income and artistic promotion. In addition to these immediate costs, there can also be long-lasting harmful effects on the ability of U.S. artists to tour, perform, and create art abroad.
  - ***Delays and unpredictability in the visa process create high economic risks for U.S. nonprofit arts organizations and the local economies they support.*** Nonprofit arts groups frequently sell tickets in advance, creating a financial obligation to their audiences. Regular visa processing at USCIS can take too long for arts organizations to accommodate given that **delays can unpredictably stretch to weeks and months**, and the cost to upgrade the petition or to cancel altogether directly impacts the bottom line of U.S. nonprofit arts employers. Any delays at USCIS immediately impact the remaining time for artists to undergo consular processing in order to obtain the physical visa, and with consular processing becoming increasingly challenging to schedule and undergo, it is critical that the visa approval process at USCIS be as efficient as possible.
  - ***When artists are unable to come to the United States for guest engagements, the American public is denied the opportunity to experience international artistry.*** Performances and other cultural events are date-, time-, and location-specific. The nature of scheduling and confirming highly sought after guest artists in the U.S. requires that the visa process at USCIS and U.S. consulates be efficient and reliable so that U.S. audiences may experience extraordinary artistic and cultural talent at home that they could not otherwise enjoy.

- **Immediate assistance is needed to improve the artist visa process. Congress recognized the time-sensitive nature of arts events** when writing the 1991 federal law regarding O and P visas—the categories used by artists—in which the USCIS is instructed to process O and P arts visas in 14 days. In the event the 14-day timeframe is not met, passage of the Arts Require Timely Service (ARTS) provision would require that USCIS process of nonprofit O and P arts-related visa petitions within a total of 29 days—twice the current statutory requirement, which in itself is eminently reasonable and consistent with security concerns. Although USCIS has made efforts in recent years to observe the statutory timeframe, the mandate has not been consistently implemented. Under its current authority, the agency can make other immediate changes to remedy unreasonable delays, cost, and uncertainty, such as improving the accuracy of the petition process.
- **Nonprofit arts organizations of all sizes cannot afford the \$1,225 premium processing fee, leaving them to await the unpredictability of regular visa processing.** Nonprofit arts organizations from all regions of the country and in communities of all sizes engage extraordinary foreign guest artists. The premium processing fee reduces the amount of money available for a production/performance and represents a significant portion of an organization's operating budget and costs. This burden has already grown heavier with the December 2016 decision by USCIS to impose a 42% increase in the regular filing fee.

## BACKGROUND

Foreign guest artists engaged by U.S. arts-related organizations are required to obtain an O visa for individual foreign artists, or a P visa for groups of foreign artists, reciprocal exchange programs, and culturally unique artists. Visas are first processed for approval by USCIS before artists undergo final steps to obtain their visas at State Department consular locations world-wide. Artists and U.S. nonprofit arts organizations have confronted uncertainty in gaining approval for visa petitions due to lengthy and inconsistent processing times, inconsistent interpretation of statute and implementation of policies, expense, and unwarranted requests for further evidence.

Delays began when USCIS adopted a Premium Processing Service (PPS) in June 2001, guaranteeing processing within 15 calendar days at an additional cost of \$1,225 per petition on top of the filing fee and various additional expenses— this fee is often unaffordable for most nonprofit arts organizations. Following the creation of PPS, regular O and P visa processing varied widely, ranging from 30 days to six months. In the summer of 2010, USCIS pledged to meet the statutory 14-day regular processing time and promised public stakeholders that significant improvements would be made to the quality of artist visa processing. For several years, petitioners experienced incremental improvements to processing times, only to encounter at-times lengthy and highly unpredictable delays once again over the past two years. These delays, combined with inconsistent processing procedures, result in petitioners having to upgrade to PPS at an unsustainable rate or to cancel plans to engage foreign artists, which is financially, logistically, and reputationally problematic if an event has already been marketed.

Congress can make enduring improvements to the visa process, therefore we ask that any immigration reform effort include enactment of the Arts Require Timely Service (ARTS) provision. USCIS would be required to treat any arts-related O and P visa petition that it fails to adjudicate within the 14-day statutory timeframe as a Premium Processing case (additional 15-day turn-around), free of additional charge. This legislation would not diminish the standards by which artists qualify for a visa—it would hold USCIS to a reasonable timeframe, imparting sorely needed reliability to an unpredictable process that affects U.S. nonprofit arts employers, foreign guest artists, and U.S. audiences.

# ARTS IN HEALTH

## IMPROVING THE HEALTH OF AMERICANS THROUGH THE ARTS

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### ACTION NEEDED

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#### We urge Congress to:

- **Support programs within the Administration for Community Living (ACL) included in the *Older Americans Act Reauthorization Act of 2016* that provide access to creative arts therapies and artist-directed activities for well elderly and individuals diagnosed with Alzheimer's Disease and other dementias.**
- **Support research funding for creative arts therapies and arts in health programs within federal agencies such as the National Institutes of Health (NIH) and Substance Abuse and Mental Health Services Administration (SAMHSA) within the Department of Health and Human Services as well as the Institute for Education Sciences within the Department of Education.**
- **Ensure that any healthcare legislation enacted preserves access to affordable healthcare coverage for artists and other creative occupations.**

### TALKING POINTS

- "Arts in Health" includes the professional creative arts therapies disciplines of art therapy, music therapy, dance/movement therapy, drama therapy, psychodrama, and biblio/poetry therapy, all of which are nationally board certified therapies with licensure in selected states, as well as artist-directed applications of visual, literary and performing arts, and design. These creative arts therapists and community artists work together to provide quality, cost-effective services within a wide variety of healthcare and community settings.

### Creative Arts Therapies and Artist-Directed Programs Support Healthy Aging

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- The *Older Americans Act Reauthorization Act of 2016* provides funding for states & area agencies on aging to increase access to support services and health promotion services, including creative arts therapies.
- Accessibility to creative arts therapies and active participation in the arts:
  - provides **lifelong learning** opportunities;
  - increases **quality of life** across the lifespan;
  - reveals **positive impacts** on maintaining independence and reducing dependency; and
  - reduces risk factors** that drive the need for long-term care.

### Program Examples

- **The Sanford Arts Vermillion (SAV)** supports client wellness through the arts at Sanford Vermillion Medical Center in **South Dakota**. Staff report reduction in negative behaviors, decreased use of antipsychotic medication, and increased wellness and quality of life for nursing home residents involved in arts engagement sessions.
- Dance/movement therapy at **Mercy Health System** in **Pennsylvania** allows for low-income, chronically ill older adults to maintain independence at home for as long as possible, supporting greater quality of life and wellness.
- **Menorah Center for Rehabilitation and Nursing Care** in **Brooklyn, New York** provides short-term, subacute rehabilitation and long-term nursing care. Utilizing an interdisciplinary treatment team, the creative arts therapies are used specifically for residents with dementia, as drama therapy, and the creative arts therapies, tap into memories, improves communication and provides a calming effect.

- **Iona Senior Services in Washington D.C.** offers art therapy to improve cognitive functioning and reduce depression and hospitalization among older-adults who have dementia, Alzheimer's, Parkinson's, and other cognitive and physical disabilities. Clinicians integrate mindfulness, meditation and sensory-based interventions such as felting, printmaking, and pottery.

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### **Research in Creative Arts Therapies and Artist-Directed Programs**

- **NEA Interagency Task Force on Arts and Human Development** encourages research opportunities for understanding the arts' role in improving health and educational outcomes throughout the lifespan.
- **NIH and Kennedy Center Sound Health** collaboration brings together leading researchers, music therapists and arts practitioners to better understand the impact of arts on the mind and body.
- A 2017 analysis of data from the federally funded **Health and Retirement Study (HRS)** found that older adults who both created and attended art in 2014 reported better health outcomes (lower rates of hypertension and greater cognitive and physical functioning) than did adults who neither created nor attended art.
- In response to the opioid crisis, the **National Center for Complementary and Integrative Health (NCCIH) at NIH** is funding research that examines the impact of behavioral interventions for prevention and treatment of opioid use disorder and what complementary therapies, including creative arts therapies, may work and how they work to manage pain.

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### **Outcomes**

- Art Therapy is effective in improving cognitive and sensory-motor functions, helping cope with traumatic experience, fostering alternative forms of communication, and reducing conflicts/distress.
- Dance/Movement Therapy is effective at increasing quality of life, improving mood, affect and body image and in decreasing clinical symptoms such as depression and anxiety.
- Drama Therapy is effective in finding improved socialization and coping skills, rehearsing desired behaviors and finding flexibility in life's roles.
- Music Therapy is effective in reducing pain perception and anxiety, improving mood and quality of life, promoting communication, and enhancing cognitive and physical functioning.
- The aesthetics and design of a medical treatment facility can influence energy consumption, staff performance, and patient recovery.

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### **Affordable Healthcare Coverage for Artists and other Creative Occupations**

**The national arts community requests that any efforts to alter the Affordable Care Act maintain:**

- Access to affordable individual policies;
- Protections for pre-existing conditions;
- Requirement for coverage of preventative services;
- Consumer protections, essential benefits, and minimum standards of care.

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### **BACKGROUND**

Today, creative arts therapists and community artists work in diverse settings across a wide spectrum of populations, assisting people through all life stages. Besides private for-profit and nonprofit health facilities, settings for this work include: hospice programs; long-term care facilities; mental health programs; schools; rehabilitation treatment centers; special needs camps; disaster response teams; psychiatric forensic units; veterans' facilities; prisons; community centers; wellness programs; and military bases.

Economic analyses, cost studies, and clinical research show a positive trend in the use of creative arts therapies and their impact on containing healthcare costs and facilitating functional outcomes achievement. Creative arts therapies and artist-directed programs have the potential to positively impact spending concerns, quality of care issues, and treatment needs of healthcare consumers. An investment in "Arts in Health" is an investment in America's health.

## ARTS AND THE MILITARY

### IMPROVING THE HEALTH OF ACTIVE MILITARY AND VETERANS THROUGH THE ARTS

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#### ACTION NEEDED

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##### We urge Congress to:

- **Support H.R. 102, Expanding Care for Veterans Act, sponsored by Rep. Julia Brownley (D-CA) to improve access to evidence-based complementary alternative treatments for veterans, including creative arts therapies.**
- **Support continued funding through the Department of Veterans Affairs and Department of Defense for creative arts therapies services and artist-directed programs for veterans and active military.**

#### TALKING POINTS

- “Arts and the Military” includes the professional creative arts therapies disciplines of art therapy, music therapy, dance/movement therapy, drama therapy, psychodrama, and biblio/poetry therapy, all of which are nationally board certified therapies with licensure in selected states, as well as artist-directed applications of visual, literary and performing arts, and design. These creative arts therapists and community artists work together to provide quality, cost-effective healthcare and wellness services for active military, veterans, and their families.

#### Complementary, Alternative, and Integrative Health Interventions Help Veterans

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- **Blue Star Theatres** is a collaborative program of Theatre Communications Group (TCG) and Blue Star Families. **Blue Star Theatres** currently has **170 participating theatres spanning 42 U.S. states and territories** that connect theatre offerings to military personnel across the United States. **Blue Star Museums**, also a program of Blue Star Families, offers free admission to the nation’s service members, including National Guard and Reserve, and their families, to **more than 2,000 museums across America** from Memorial Day through Labor Day each year.
- **The Veterans Affairs of New Haven, CT** utilizes drama therapy and therapeutic theatre to aid the participants in expressing their feelings of trauma in a safe and structured environment, while rehearsing and physically experiencing new coping skills and healthy goal achievement.
- **Austin State Hospital, Texas Department of State Health Services**, provides experiential therapies to veterans, among their adult behavioral health and medical units, to increase socialization and mental and emotional stabilization.
- **Creative Healing Connections** presents arts & reintegration retreats for active duty and veteran women, as well as arts & healing retreats for military spouses, military families, and retreats for military men. These artist-led retreats, held in the **Adirondack region of New York** since 2006, use the arts, complementary therapies, and nature to provide safe environments for individual and collective self-expression.
- **Ars Bellum Foundation**, formed in 2014 by a group of veterans, active duty service members, and military family members has a primary mission to provide evidence-based art therapy programs to veterans and military family members struggling with PTSD and related mental health conditions due to service-related trauma, loss, and grief. Sites are open in **St. Paul, Brooklyn Park, and Benson Minnesota. Rochester, MN, North Carolina, and Tampa Bay, FL** sites are under development to open in 2018.
- Music therapy programs in **VA hospitals in 27 states (AL, AZ, CA, CT, FL, GA, IA, IL, IN, KS, LA, MA, MD, MI, MN, NC, NJ, NY, OH, PA, SD, TN, TX, VA, WI, WV, WY)** enhance physical, cognitive, psychological, and socio-emotional functioning. Board certified music therapists facilitate community transition and provide opportunities to acquire, practice, and assimilate new skills into the "new normal" following disease or injury.



### **Creative Forces: NEA Military Healing Arts Network**

- Made possible by a unique collaboration between the National Endowment for the Arts, the Departments of Defense and Veterans Affairs, and state arts agencies.
- Goals are to help military personnel and veterans return to their homes, their missions and their families whole, mentally fit and emotionally ready for whatever comes next.
- Provides art therapy, music therapy, dance/movement therapy and therapeutic writing for service members with traumatic brain injury and associated psychological health issues.
- Recognizing the success of this program, in fiscal years 2016 and 2017, Congress appropriated a nearly \$2 million budget increase each year for the NEA, specifically allocated to expand this military healing arts program.

### **2017 Creative Forces Clinical Research Summit**

The National Endowment for the Arts (NEA) convened a summit in September 2017 with over sixty professionals to begin formulating a five-year plan for clinical research related to the impact of the creative arts therapies with military populations. As part of her support for the creative art therapies, Second Lady, Karen Pence hosted the kickoff breakfast for this Summit at the Vice President's Residence.

In October 2017, Mrs. Pence announced her initiative, ***Art Therapy, Healing with the HeART*** so people can better understand that art therapy is a mental health profession, to spread awareness that art therapy is a treatment option for those seeking services, and to encourage young people to consider art therapy as a career choice. Mrs. Pence has visited several Creative Forces sites and other facilities offering art therapy and creative arts therapies for veterans and their family members.

### **Locations:**

Joint Base Elmendorf-Richardson (JBER), Anchorage  
AK  
Marine Corps Base Camp Pendleton,  
Oceanside, CA  
Fort Carson, CO  
James A. Haley Veterans' Hospital, Tampa, FL  
Fort Campbell, KY

National Intrepid Center of Excellence (NICoE) at  
Walter Reed, Bethesda, MD  
Marine Corps Base Camp Lejeune, Jacksonville, NC  
Fort Hood, TX  
Fort Belvoir, VA  
Joint Expeditionary Base, Little Creek, VA  
Joint Base Lewis-McChord, Tacoma, WA

### **BACKGROUND**

Despite strong historical beginnings in veterans' hospitals during World War II, and inclusion in VA Hospital programs across the U.S., there remains a need to expand opportunities for creative arts therapies and artist-directed programs so that more military members and veterans can access these services in their communities. Economic analyses, cost studies, and clinical research show a positive trend in the use of creative arts therapies and their impact on containing healthcare costs and facilitating functional outcomes achievement. Creative arts therapies and artist-directed programs have the potential to positively impact the healthcare spending concerns, quality of care issues, and healthcare needs of active military and veterans.

H.R. 102 Expanding Care for Veterans Act:

- Key aspects of H.R. 102 were previously a part of H.R. 2256, the Veterans Information Modernization Act, which had strong bipartisan support and passed the House in July 2015.
- H.R. 102 directs Department of Veterans Affairs (VA) to develop a plan to expand the scope of VA's research, education, delivery, and integration of complementary and alternative medicine services.
- H.R. 102 proposes a three-year program through the **VA's Office of Patient Centered Care and Cultural Transformation** to assess feasibility, and identify and resolve barriers to integrating the delivery of complementary and alternative medicine services with other VA health care services.

## ARTS & INFRASTRUCTURE

### SUPPORTING ART IN PUBLIC TRANSPORTATION PROJECTS

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#### ACTION NEEDED

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##### We urge Congress to:

- **Enact the Saving Transit Art Resources (STAR) Act to reinstate flexibility and allow transit authorities to incorporate art into federally-funded transit projects and facilities.**

#### TALKING POINTS

- **Before December 2015, federal law allowed the Federal Transit Administration (FTA) to include project costs associated with art (typically 1-2% of the project's capital budget).** Funds could be used to support the employment of an artist/artist team, (both individually or as a member of a design team), provided that the artistic elements were integrated into the facility or served a functional transit-related purpose.
- In December 2015, Congress passed the *Fixing America's Surface Transportation (FAST) Act*, P.L. 114-94 to reauthorize highway and transit programs for five years, lasting until 2020. **This law established a new prohibition on the use of FTA funds. These funds can no longer be used for the "incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on the design team."** (49 U.S.C. 5323(h)(2) as amended by FAST.)
- **This blanket prohibition on art applies to all FTA programs and grants**, including all programs authorized under Chapter 53 of Title 49, U.S.C. and other programs for which FTA serves as the grant making agency (e.g. TIGER).
- In addition, **once FTA funds are utilized for any part of a transportation project, the local funds face the same federal restrictions and probations, severely limiting the ability to incorporate art into transit projects.**
- Transit agencies and communities alike benefit from the integration of art into transportation projects. **In cities large and small across America, transit agencies have been employing artists to enhance transit projects over the past three decades**, including to aid in their design, improve safety and security, increase ridership, reduce vandalism, facilitate communication and community pride, and boost economic activity through tourism, to name a few (American Public Transit Association's [Best Practices for Integrating Art into Capital Projects](#)).

*For example, the **Wyoming Department of Transportation** has engaged with public art administrators to discuss public art in transportation projects. In North Carolina, the **Charlotte Area Transit System** integrates art into most major projects, including stations and surrounding areas, park and ride lots, transportation centers, maintenance facilities, and passenger amenities to provide efficient, cost-effective public transportation that creates vibrant and well-utilized mass transit commuter and passenger options. The **Maryland Transit Administration** works with artists on proposals to incorporate artwork into new stations that highlight the cultural vitality of the region—and reflect the artistic, cultural, and historical interests of the community. In Tennessee, the **Nashville Metropolitan Transit Authority** creates artist-designed transit shelters to enhance facilities and engage the community to create better places to live, work, and play. All of this work is now in jeopardy.*

## BACKGROUND

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The new federal policy restricting transit funding for art is sweeping and significant. Further alarming, it continues a steady progression of funding restrictions on art in transit.

In the previous highway reauthorization enacted in 2013, (*Moving Ahead for Progress in the 21st Century Act* (MAP-21)), another significant change occurred, in that “stand-alone” art was prohibited. Prior to MAP-21, federal transit law permitted the use of FTA grant funds for costs associated with including art in public transportation projects. This permitted use was one of several types of projects termed “transit enhancements.” **Communities all across the nation created innovative projects through art, which proved to be a vital component in public transportation, encouraging use, revitalizing neighborhoods, mitigating crime, and driving tourism.**

However, beginning in 2013 with MAP-21, federal transit law no longer included stand-alone art as an eligible project expense. Transit agencies, though, could continue to use FTA funds to support the employment of an artist as a member of a design team, or other costs associated with art, provided that the artistic elements were integrated into the facility or served a functional transit-related purpose.

In the years since, artists continued to help create functional elements (for example, screening, fare evasion barriers, lighting elements, etc.) and brought significant value to projects with minimal additional investment. Often, this investment was from local matching funds. Allowing the continued integration of artwork as part of a larger construction project brought significant benefits, such as shared foundations, shared materials, and shared engineering – all of which decreased overall project cost.

With enactment of the FAST Act in 2015, Congress, however, escalated these MAP-21 limitations to an outright prohibition on art. These art prohibitions apply only for transit projects, and local matching funds also face the same restrictions. Impacted projects may include bus, subway, light rail, commuter rail, trolley, and ferry projects, and are **reversing years of systemic enhancement of our transit systems to the detriment of riders and non-riders in every state**. Across the board, transit agencies are constructing fewer and smaller projects, especially impacting smaller transit systems.

## STATEMENT OF CONCERN

### FAIR COMPENSATION FOR MUSIC CREATORS

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#### BACKGROUND

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House Judiciary Chairman Bob Goodlatte (R-VA) and Ranking Member Jerry Nadler (D-NY) have called on the committee to address music licensing during the 115<sup>th</sup> Congress. With laws that predate World War I, music licensing is woefully outdated and in need of modernization to reflect the digital era and to ensure that all music creators are paid fairly for their work.

For instance, although royalties are paid to songwriters and publishers whenever their work is used by terrestrial radio, this public performance right does not extend to the performers or the sound recording copyright owner. So, when you hear Whitney Houston singing “I Will Always Love You” on the radio, the songwriter, Dolly Parton, and her publisher are compensated appropriately, but Whitney Houston never received compensation for the performance. Neither do the studio musicians, backing vocalists, or the record label. In the U.S., AM/FM radio is the only medium that broadcasts music without compensating artists or labels for the performance.

And when it comes to songwriters, the digital era has left them in the dust. Songwriter rate standards remain firmly rooted in the Player Piano Era, with royalties having only increased a few pennies since 1909. Further, consent decrees issued by the Department of Justice in 1941 impact songwriters’ ability to seek fair compensation in an open and free market.

#### STATEMENT OF CONCERN

As congress considers modernizing music licensing laws, we urge Members of Congress to **not** support any policy that would deny music creators their right to earn fair compensation for their work. No legislation should be considered that devalues musical works, suppresses music creator’s ability to earn royalties in the open market, and/or strips away their statutory rights.

Specifically, we ask Congress to **oppose** H. Con. Res. 13 and S. Con. Res. 6, the misleading “Local Radio Freedom Act” (LRFA), which puts members of Congress on the record against compensating performers for their work broadcasted on terrestrial radio. Despite its name, LRFA has little to do with local radio and more to do with ensuring that big radio broadcasters can continue to generate billions in annual revenues without compensating performers.

Performers are entitled to be compensated for their work. Such royalty payments are standard abroad, are not a form of taxation, and are not a financial burden on large broadcasters. And with an appropriate carve-out for non-commercial broadcasters, paying compensation to performers won’t interfere with true local radio broadcasters such as college, community, and public stations.

We urge Members of Congress to stand with, not against, artists and creators. Congress should support legislative efforts to modernize music licensing that protect the rights of creators and have broad support from relevant stakeholders in the music and arts community.

## **STATEMENT OF CONCERN**

### **NET NEUTRALITY: PRESERVING AN OPEN INTERNET**

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#### **ACTION NEEDED**

**Congress should overturn the FCC's "Restoring Internet Freedom" Order and restore net neutrality protections by using the Congressional Review Act (CRA) in order to s preserve an open Internet where artists and creative entrepreneurs can reach potential audiences, build businesses, and contribute to culture.**

#### **TALKING POINTS**

- The Internet must remain a place where users can learn, engage, express themselves, innovate, and be entrepreneurial. Working artists of all disciplines depend on the Internet to promote and sell their work, cultivate audiences, and make a living. Therefore, it is important that artists and arts organizations not be disadvantaged based on the business practices or other preferences of Internet Service Providers (ISPs).
- Congress has the ability and authority under the Congressional Review Act to quickly repeal the FCC's attempt to kill net neutrality and keep the current protections in place.
- ISPs, must not be allowed to block, throttle, degrade, or otherwise discriminate against lawful online content. If such discrimination were allowed, smaller artists, creative entrepreneurs, and nonprofit organizations would find themselves at a disadvantage against larger commercial enterprises that are able to pay for premium delivery to end users.
- The 2015 network neutrality rules do not impair the ability of ISPs or the federal government to protect copyrighted content openly and transparently.
- The viability of the arts and culture communities in the 21st century depends on our ability to compete on a level online playing field.
- The FCC's rush to action on Dec 14 ignored overwhelming public opinion and Republican and Democratic calls to delay the vote, and a potentially corrupted public comment process that is currently being investigated by State Attorney Generals.

#### **BACKGROUND**

The open Internet has created unprecedented opportunities for artists, cultural organizations, and creative entrepreneurs to promote their work or to sell their creative products and services. Because of the Internet's level playing field, organizations and individuals can reach Internet users without having to ask permission from an ISP or pay an additional toll to deliver lawful content to ISP subscribers who have already requested it.

ISPs can exert immense control over how Internet users access sites and services. Without clear rules of the road, ISPs could potentially stifle speech that they find objectionable, discriminate against threatening business models, block certain internet applications, slow delivery of online content, or compromise users' privacy.

In December 2010, the FCC approved its Open Internet Order to preserve "net neutrality"—the principle that allows any Internet user to access the lawful content or application of their choosing without interference from an ISP. These rules were made official in September 2011.

On January 14, 2014, the U.S. Court of Appeals for the D.C. Circuit overturned portions of the FCC's Open Internet Order, but affirmed the FCC's authority to regulate broadband networks. Following a public proceeding at the FCC that saw more than 4 million individual comments filed—the vast majority in support of net neutrality—the FCC on February 26, 2015 voted on new net neutrality rules. The rules were again challenged in court and on December 4, 2015, the D.C. Circuit heard oral arguments on the merits of the new rules, and the decision was upheld on June 14, 2016.

## **BACKGROUND (CONTINUED)**

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Upon his appointment, current FCC Chairman Ajit Pai vowed to roll back these rules, and despite the broad and bipartisan public support for net neutrality, the FCC voted 3-2 to repeal the Net Neutrality rules on December 14, 2017.

One survey found that 83% of voters supported keeping net neutrality rules, including 75% of Republicans, 89% of Democrats, and 86% of independents.<sup>1</sup>

The Congressional Review Act allows Congress to review a new agency regulation (in this case, the FCC's "Restoring Internet Freedom" Order) and pass a joint resolution of disapproval to overrule it. Effectively this would repeal the FCC's repeal, and leave the existing rules in place.

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<sup>1</sup> <http://thehill.com/policy/technology/364528-poll-83-percent-of-voters-support-keeping-fccs-net-neutrality-rules>

**STATEMENT OF CONCERN**  
**PROTECTING WIRELESS TECHNOLOGY FOR THE ARTS**  
**FEDERAL COMMUNICATIONS COMMISSION**

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**It is essential that the FCC protect wireless microphones and other devices used by performing arts entities that provide valuable public service. Congress should urge the FCC to provide licenses and geo-location database protection to preserve nonprofit performing arts and education operations and their financial investments in technical equipment.**

- **The performing arts provide valuable public service.** Performances by opera and dance companies, symphony orchestras, and regional theaters reach a combined audience of 190 million Americans and collectively represent \$7.8 billion industry annually. In the United States, there are more than 26,000 school theater programs, which impact approximately 600,000 students. Given the thousands of performances held by arts organizations each year, the use of wireless microphones is essential to producing high-quality performances, ensuring public safety, and enabling high-quality audio feeds to persons with disabilities.
- **Performing arts entities need interference protection.** Wireless microphones and other devices used by performing arts entities use the same radio frequency channels as “White Space Devices” now under development. Participation in a geo-location database is the only method providing vital interference protection for wireless microphones. The FCC has limited access to the database to licensed performing arts entities, and the Commission now grants licenses to only entities regularly using 50 or more wireless devices. This arbitrary threshold *excludes* almost all regional theaters, symphony orchestras, opera companies, educational theater, and presenting organizations.
- **The FCC should be urged to expand license eligibility.** The FCC issued a Further Notice of Proposed Rulemaking (FNPRM) in July 2017 to expand license eligibility to include persons and organizations that can demonstrate the need for professional, high-quality audio and the capability to provide it through conscientious use of wireless microphones. Hundreds of individuals and performing arts organizations filed comments in support of this proposal. Only Microsoft opposed the FCC proposal, claiming that it would interfere with the company’s concept of expanded wireless networking. Performing arts organizations replied that performances and networking can coexist through the use of the database.
- **Congress should recognize the investment that organizations in the performing arts and education have made in wireless microphone technology.** Performing arts and education organizations provide demonstrable service to the public in improving quality of life; preserving our cultural heritage; providing jobs, education, and entertainment; and contributing to local economies in every community across this country. K–16 schools committed to the performing arts as part of their well-rounded curriculum have also expended considerable funding to ensure their students have the opportunity to learn and train on up-to-date audio equipment. These valuable public benefits and significant investments should be considered in proposals that would require wireless microphones to operate in a different part of the radiofrequency spectrum, demanding the purchase of new sound equipment—a challenge to the limited budgets of nonprofit performing arts organizations and educational institutions.

**BACKGROUND**

For 40 years, wireless microphone technology has allowed users unrestricted on-stage movement and helped to create sophisticated sound, primarily within “White Spaces,” radio frequencies between broadcast channels of the television band. Wireless systems are also integral to backstage communications used by stagehands to

execute complex technical activity. Interference to these backstage communications, along with the hazards of cords, could compromise the safety of performers, technicians, and audiences. Additionally, many theatres use wireless microphones to feed high-quality audio into assistive listening devices mandated by the Americans with Disabilities Act.

In 2010, the FCC determined that White Spaces could be shared by wireless microphones used in the performing arts and new White Space Devices. The FCC ordered the establishment of a geo-location database which would allow the new devices and wireless microphones to share spectrum without interference and two safe-haven channels reserved for wireless microphones. The FCC ordered wireless microphone users to vacate the 700 MHz band by June 12, 2010, to make room for licensed wireless phone and data operations. For many performing arts organizations, that migration caused unanticipated expenses of \$25,000–\$100,000 for sound equipment that would operate in a different area of the broadcast spectrum.

The geo-location database launched nationwide in December 2012, and White Space Devices were allowed to operate nationally in March 2013. In October 2012, the FCC began implementing the *Middle Class Tax Relief and Job Creation Act of 2012*, which transitions spectrum from TV broadcasting to wireless broadband through auctions. The FCC has announced the repacking of the broadcast spectrum following the incentive auctions—which will require relocation of wireless microphones from the 600 MHz band and, once more, the potential for costly replacement of sound equipment.

In 2014 the FCC restricted wireless microphone licenses to the largest users, and on August 6, 2015, the FCC eliminated the ability of unlicensed wireless microphones to access the database for protection from White Space Devices. The Commission also began the process by which wireless microphones may move to new spectrum following the television spectrum auction, which dramatically reduced the amount of available White Spaces. The two safe-haven channels were eliminated.

Bipartisan letters in support of protections for wireless microphones were sent to the FCC in October 2013, May 2015, and May 2017 by Members of Congress: Reps. Lance (R-NJ), Slaughter (D-NY), Blackburn (R-TN), Engel (D-NY), Cramer (R-ND), Nadler (D-NY), Young (R-AK), Pingree (D-ME), DeFazio (D-OR), Lewis (D-GA), Cohen (D-TN), Green (D-TX), Lujan (D-NM), Pitts (R-PA), Olson (R-TX), Bilirakis (R-FL), Long (R-MO), Pompeo (R-KS), and Rush (D-IL). The Wireless Microphone Users Interference Protection Act of 2013 (H.R. 2911), introduced by Rep. Rush (D-IL), had five cosponsors: Reps. Castor (D-FL), Cohen (D-TN), Green (D-TX), Lujan (D-NM), and Maloney (D-NY).

Reps. Walden (R-OR) and Eshoo (D-CA), senior members of the Communications and Technology Subcommittee of the Energy and Commerce Committee, held an FCC oversight hearing in July 2016, during which they voiced bipartisan support for the nonprofit performing arts and protection of wireless microphones used in theatres. They sent a letter to the FCC Chairman on August 8, 2016, urging the FCC to "provide relief" to users of fewer than 50 wireless microphones. The FCC promised to work on the issue.

The FCC issued an FNPRM in 2017 to expand Part 74 license eligibility to entities that can demonstrate the need for professional, high-quality audio and the capability to provide it through conscientious use of wireless microphones. Filed comments have overwhelmingly supported the FCC's proposal; Microsoft's opposition, however, has garnered support, principally from Statehouses across the country. Congressional support is vital to encourage the FCC's decision.