



Emily Anne Staples Tuttle papers.

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MEMORANDUM

TO: Publications Subcommittee, The States and the Arts Committee

Senator Todd Evans, GA	Representative Joe Gersten, FL
Representative Bob Bina, IA	Senator Ron Hein, KS
Representative Jodie Mahony, AR	Senator Tarky Lombardi, NY
Delegate Pauline Menes, MD	Senator Jack Faxon, MI
Senator Emily Anne Staples, MN	Senator Alan Sieroty, CA
	Mary Brabston, AL (for Lt. Gov. McMillan)

FROM: Deborah E.S. Bennington *DEB*

SUBJECT: Cancellation of September Meeting

DATE: August 29, 1980

The meeting we set for September 13th in Chicago has been cancelled due to schedule conflicts. We are going to try to reschedule for sometime in October, although we have not yet picked a date. I realize this is a very busy time for everyone, so I will be back in touch with you as soon as possible. Call if you have any questions or absolutely "out of the question" Saturdays in October.

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Senate
California Legislature

ALAN SIEROTY
TWENTY-SECOND SENATORIAL DISTRICT

June 18, 1980

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CHAIRMAN

ARTS TASK FORCE, NATIONAL
CONFERENCE OF STATE LEGISLATURES

MEMBER

CALIFORNIA COMMISSION ON THE
STATUS OF WOMEN
CONSUMER ADVISORY COUNCIL

Dear Arts Task Force Member:

At the Charleston meeting, Pat Sweeney raised the issue of the difficulty of funding construction of cultural facilities. A panel on this subject has been scheduled for the New York meeting, July 7 and 8.

Enclosed are copies of (1) the 1979 Alaska Cultural facilities statute and (2) a description of the cultural facility bond funding laws enacted by Washington state for specific facilities (a broader \$40 million cultural bond bill was not passed).

Best regards.

Yours sincerely,


ALAN SIEROTY

AS/LB/po

Enclosures

Article 4. Sports Facilities Grants.

Section
460. Definitions

Sec. 43.18.460. Definitions. In §§ 400 — 460 of this chapter

(2) "cost of construction" includes, in addition to costs directly related to the project, the sum total of all costs of financing and carrying out the project; these include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with the project; an allocable portion of the administrative and operating expenses of the grantee; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary; it does not include the cost of promotion, travel, or feasibility studies;
(am. § 27 ch 168 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote paragraph (2).

As the rest of the section was not affected by the amendment, it is not about.

Article 5. Cultural Facilities.

Section

500. Cultural facility construction and development grants

Sec. 43.18.500. Cultural facility construction and development grants. (a) There is established within the Department of Commerce and Economic Development a cultural facilities development fund for the purpose of providing state assistance in the construction and development of cultural facilities within those municipalities which actively provide support to the arts. Within the limits of direct appropriations for the purpose or through the appropriation of the proceeds of a general obligation bond issue, the department shall make grants to municipalities for construction and development of cultural facilities.

(b) Grants for only one site may be awarded to a municipality under this section.

(c) Application for a grant shall be made in the form required by the commissioner.

(d) No application for a grant may be considered for approval by the commissioner and no funds paid by him under this section unless

(1) the project is endorsed by resolution of the governing body of the sponsoring municipality on its own behalf or on behalf of the officially recognized arts planning organization of the municipality;

(2) the commissioner is satisfied that the sponsoring municipality

(A) has the authority under AS 29.41 or AS 29.48 to provide and maintain a cultural facility;

(B) is able to provide the local share of total project costs; and

(C) will be financially able to maintain and operate the facility upon completion;

(3) the municipality provides all information which the department may require by regulation to enable the commissioner to verify estimates of total project costs;

(4) the complete application has been submitted

(A) to the state assessor for his determination and verification that the fair market value of any real property claimed as a credit under (f)(4) of this section is accurate; and

(B) to the Department of Transportation and Public Facilities, for review in accordance with the provisions of AS 35.10.190;

(C) to the Advisory Council on Cultural Facilities (AS 44.33.400 — 44.33.410) for its review; and

(5) after providing voters with a description of the funding sources for construction of a proposed facility and a summary of the estimated annual maintenance, operating and occupancy costs of the cultural facility, the municipality has secured the approval of the residents for construction of the facility; the approval of the residents may be given by

(A) authorization of a general obligation bond to provide the contribution of the municipality to the project;

(B) voter approval of the dedication of the proceeds of a general tax increase to provide the contribution of the municipality to the project; or

(C) an affirmative vote of the majority of the voters casting votes on a proposition at a regular or special election called for the purpose.

(e) The grant to a municipality shall be disbursed in accordance with the terms of an agreement between the commissioner, on behalf of the state, and the governing body of the municipality receiving the grant. The agreement may include any provision agreed upon by the parties, but shall include in substance the following provisions:

(1) the municipality shall secure, retain and protect title to the site or location on which the facility is to be constructed or developed; for purposes of this paragraph it is sufficient that title is obtained in fee or by lease by the terms of which the municipality enjoys exclusive use of the land and any improvements for the estimated project life of the facility or the period of maturity of any state general obligation bond a portion of the proceeds of which are used to provide financial assistance for the construction or development of the facility;

(2) the municipality agrees to provide the local contribution to total project cost required by (f) of this section, and to return to the state any excess contribution by the state as required by (h) of this section;

(3) the municipality agrees to proceed with and complete the proposed project expeditiously in accordance with plans originally submitted;

(4) the municipality will not materially alter or modify plans for the facility or undertake construction in a manner which materially departs from the approved design and plan for construction or development of the facility without first securing the written recommendation of the officially recognized arts planning organization of the municipality;

(5) the municipality agrees to assume responsibility for the maintenance and operation of the facility, directly or by delegation of responsibility to an entity organized by ordinance of the municipality or to a nonprofit corporation dedicated to the arts and recognized by the municipality; the feasibility of the discharge of this obligation shall be demonstrated to the satisfaction of the commissioner before the payment of any state funds; and

(6) the parties agree that if property constructed or developed with financial assistance provided under this section is designed or used for purposes other than for principal use as a cultural facility, the state may require the municipality to reimburse the state for that portion of the total project cost which the state's investment in the project bears to the total of investment from all sources made in the project.

(f) A municipality receiving a grant under this section shall contribute to the total cost of the project. The amount of the municipality's contribution is determined by the application of the formula

$$\left(\frac{\text{average per capita full and true value of all property in the municipality}}{\text{average per capita full and true value of all property in the state}} \right) \times \text{contribution percentage}$$

to the estimated total project cost as determined by the commissioner at the time of approval of a grant application. For purposes of this subsection

(1) the contribution percentage for

(A) a municipality having a population of 5,000 or less is 10 per cent of the total project cost;

(B) a municipality having a population of 5,001 to 10,000 is 20 per cent of the total project cost; and

(C) a municipality having a population of more than 10,000 is 30 per cent of the total project cost;

(2) if an application is submitted for a municipality for which no average per capita full and true property value determination has been made, the commissioner shall request the state assessor to compute the average per capita full and true property value of that municipality and report it to him;

(3) the actual contribution rate of the municipality may not exceed the contribution percentage established in (1) of this subsection;

(4) there shall be allowed as a credit against the municipality's contribution computed under this subsection,

(A) for a project involving construction of a new facility, the fair market value of land acquired by the municipality as the site or location for the facility;

(B) for a project involving development of an existing structure or facility, the fair market value of the land and improvements which are acquired by the municipality and committed for use as a cultural facility;

(5) the grant awarded by the state may not exceed the estimated total project cost as determined by the commissioner under (d)(3) of this section less the contribution by the municipality determined in accordance with this subsection.

(g) If funds appropriated or provided by bond issue for grants under this section are not adequate to satisfy amounts required by approved grant applications, funds shall be allocated by the commissioner on the basis of priority recommended by the Advisory Council on Cultural Facilities.

(h) If, upon completion of the facility, it appears that actual total project costs varied substantially from estimated total project costs determined by the commissioner under (d)(3) of this section and if the actual contribution of the state exceeds the percentage of total project costs payable by the state determined under (f)(5) of this section, the commissioner shall require the municipality to pay an amount to the state sufficient to reduce the state contribution to the percentage of state contribution required by (f)(5) of this section. If the actual total project costs exceed estimates, the commissioner may not provide additional financial assistance to the municipality.

(i) The commissioner shall

(1) provide an annual report to the legislature with respect to grants made under this section;

(2) adopt regulations to carry out the provisions of this section, including, but not limited to, regulations describing information about the proposed facility to be provided by the municipality which submits an application for a grant under this section.

(j) In this section,

(1) "commissioner" means the commissioner of commerce and economic development;

(2) "construction" means site preparation, erection of a structure, and acquisition and installation of fixtures and necessary fixed equipment, but does not include completion of feasibility studies, site acquisition or facility design;

(3) "cultural facility" means a structure or complex the principal purpose of which is to serve the visual and performing arts, including but not limited to a theatre, concert hall or gallery, or to serve as the

repository of the historical or contemporary heritage of the community and its people, and which also may be used for compatible activities, including but not limited to, activities relating to education, community meetings, tourism, and visitor information;

(4) "department" means the Department of Commerce and Economic Development;

(5) "development" means the acquisition and preservation, remodeling or redevelopment of an existing structure or facility, together with the acquisition and installation of fixtures and necessary fixed equipment, for use as a cultural facility;

(6) "municipality" means a home rule or general law city or borough, and includes municipalities unified under AS 29.68.240 — 29.68.440;

(7) "total project costs" means, in addition to costs directly related to the project, the total of all costs of financing and carrying out the project including, but not limited to,

(A) the costs of all necessary studies (except feasibility studies), surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment necessary in connection with the project;

(B) an allocable portion of the administrative and operating expenses of the municipality;

(C) the cost of financing the project, including interest on bonds issued to finance the project; and

(D) the cost of other items, including indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositories, financial advisors, and costs of paying agents for the bonds issued. (§ 1 ch 62 SLA 1979)

~~Chapter 19. Multistate Tax Compact~~

~~Section~~

~~50. Interstate audits~~

~~Sec. 43.19.050. Interstate audits. Article VIII of the compact relating to interstate audits shall be enforced and with respect to this state. (§ 1 ch 124 SLA 1970)~~

~~Editor's note. — This section is set out above to correct an error in the main pamphlet.~~

SPONSORS: Committee on Ways and Means
(Originally Sponsored by Senators Dausch, Conner, Rasmussen
and Wöjahn)

COMMITTEE: Ways and Means

Providing for the issuance of bonds for two recreational
performing arts facilities.

ANALYSIS AS ENACTED

ISSUE:

A bond issue to fund two recreational performing arts facilities
is required to carry out the purposes of the capital budget.

SUMMARY:

The State Finance Committee is authorized to issue \$3 million in
general obligation bonds; \$1.5 million is to be allocated for the
Washington Center for the Performing Arts facility in Olympia, and
\$1.5 million is to be allocated for the renovation and restoration
of the Pantages Theatre in Tacoma.

No bonds may be issued for the Washington Center for the
Performing Arts unless \$1.5 million in matching funds is secured
and the city of Olympia provides real estate for the site of the
facility.

No bonds may be issued for the Pantages Theatre unless \$1.5
million in matching funds is secured.

Proceeds from the bonds are to be deposited in the cultural
facilities construction account.

The cultural facilities bond redemption fund of 1979 is created.

For the 1979-81 biennium the debt service will be \$115,000 on the
bonds.

The bill contains an emergency clause.

Senate:	32	13
House:	71	24

FROM THE OFFICE OF:
SENATOR ALAN SIEROTY
ROOM 5072, STATE CAPITOL
PHONE: 445-7928
PR 80/35

FOR RELEASE JUNE 17, 1980

CONTACT: LARRY BRISKIN

The constitutionality of the California Resale Royalties Act was upheld today by the federal Ninth Circuit Court of Appeals in Los Angeles.

The law, which provides artists a 5% royalty on profitable resales of their works over \$1,000, was authored in 1976 by Senator Alan Sieroty (D-West Los Angeles). It had been challenged as preempted by federal copyright law and as a violation of due process. The appeals court rejected both contentions.

Sieroty, commenting on the court decision, said "I am very pleased. The Resale Royalties Act is an important symbol for visual artists, and I am hopeful that with this court decision there will now be greater acceptance of the resale royalty law.

"Much of the current sentiment against artists' royalties is not unlike the initial reaction against the 1909 Copyright Act," Sieroty added. "However, today copyright is universally accepted in the arts and literature."

Sieroty noted that France enacted the first art royalty law in 1921. Ten other countries in Europe, South America and Africa also have similar laws. Although California is currently the only state with an artists' royalty law, royalty legislation has been introduced in Congress and in five other states, and is among legislation recommended for state action by the National Conference of State Legislatures' Arts Task Force, chaired by Sieroty.

Knowing you for a
long time.

You know we're going
to have a meeting of the
Publications Subcommittee
in Chicago Sept 13-14.
Would you care to come?
I'll send you the literature.
Here's a copy of the outline
and the copy Larry shared
with the Subcommittee
in NY. Let me know.

Hope your election +
summer are going well.
Love, Deborah

MEMORANDUM

6 Aug

Dear Emily Anne:

Thank you for your
thank you. You are so
thoughtful and so effi-
cient. It's people like
you that make work
with the Task Force so
rewarding. Furthermore,
I am very happy that
we seem to be cementing
stronger friendship ties
with every meeting.

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I look forward to



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President
George B. Roberts, Jr.
Speaker, New Hampshire
House of Representatives
Executive Director
Earl S. Mackey

THE STATE AND THE ARTS PROJECT

ARTS TASK FORCE PUBLICATION

A PRELIMINARY OUTLINE

- I. Cover - with distinctive art work
- II. Inside the front cover - list of contributors for publication
- III. Title - something catchy like the "Coming to Our Senses" publication was, or more descriptive like "The Arts: Options for State Legislative Support in the 1980's" (1 page*)
- IV. Table of Contents (1 page)
- V. Statement of publication's purpose (by Chairman?) (4 to 6 pages)
 - A. Purpose of publication including an out-front discussion of the arts in the context of the state budget crunch of the 1980's, the marketing of the arts, and other arts issues of the 1980's.
 - B. The Arts Task Force
 1. Purpose
 2. Structure
 3. Meetings and activities
 4. Funding and acknowledgements as appropriate
- VI. List of members -- names and states. (1 page)
- VII. Summary of the publication to inform legislators and others who may not read the entire publication. (8 pages)
- VIII. NCSL's Policy Statement on the Arts adopted July, 1979, including cross-references to other parts of the publication which cover the various topics in the policy statement. (2 pages)
- IX. "Should States Support the Arts?" - a section discussing issues relating to state support for the arts. (12 to 15 pages)
 - A. The Economic Impact Issue - its value and limitations.

* Space length estimates are for typed, doubled-spaced pages.

- B. The Social Issue - arts as rehabilitative.
 - C. The Esthetic Issue - arts and the quality of life.
 - D. The Historical Issue - government support for the arts throughout history.
 - E. The Arts Audience Issue - serving a legislative constituency by providing cultural opportunities.
- X. Funding of the Arts (4 to 6 pages and several graphs and charts)
- A. A history of states - large and small, wealthy and poor - which provide the largest per capita funding for the arts.
 - 1. Graphs and/or tables on the growth of state appropriations -- all states and individual states.
 - 2. Graphs on program v. administrative expenditures for state arts agencies.
 - B. Public funding as a supplement to private support.
 - C. Pressures on state budgets (may be presented exclusively under V above).
- XI. Results of survey of state arts laws, legislation, and activities. (10 to 20 pages depending on results of survey)
- A. Box score chart showing what states have done.
 - B. State-by-state discussion of arts laws, programs or activities which are not common among all the states, but which, if described to other states, might be implemented by them.
- XII. "Recommended State Arts Legislation" -- issue by issue discussion presenting variations among different states' laws, and detailed discussion of the pros and cons of each bill. Will include references to codes and sections in which the laws are contained, where to write in each state to get copies of laws, and perhaps names and addresses of resource persons in each state. (24 pages)
- XIII. Other topics -- will focus on the needs in each area and how state legislatures can help. (12 to 15 pages)
- | | |
|-----------------------------|------------------------|
| A. Employment for Artists | J. Literature/Poetry |
| B. Minorities and the Arts | K. Film |
| C. Arts and the Disabled | L. Architecture |
| D. Community Arts Agencies | M. Public TV and Radio |
| E. Rural Areas and the Arts | N. Symphonies |
| F. Exhibition Space | O. Opera |
| G. Festivals | P. Museums |
| H. Theater | Q. Folk Arts |
| I. Dance | R. Musicians |
| | S. Jazz |

- XIV. "A Look to the Future" -- a concluding chapter indicating that the work of this Task Force is but a beginning, that this book presents a ten-year plan for the 1980's (maybe only a five-year plan), and in (five or) ten years we will look back and see what's been accomplished and then present a new blueprint. (3 to 5 pages)
- XV. Bibliography - presented either in each chapter, at the end, or both. (3 pages)

Throughout the publication -- (1) quotes from the members and participants illustrating the points made in the text; (2) photographs and artworks, including pictures with quotes, artworks funded under % for art programs, cartoons, poetry, a few bars of a symphony funded by a state arts agency, and much, much more.

PERCENT-FOR-ART

Recommendation: Appropriate a specific percentage, often 1%, of the annual construction budget for state buildings to commission and/or purchase art for new and existing state buildings; or, less preferably, require legislative consideration of annual or specific appropriations to commission and/or purchase art for these buildings.

The Arts Task Force recommends percent-for-art as one of the highest priorities for state legislative action in the arts.

Beginning with Hawaii in 1967,¹ eighteen states and Guam have enacted percent-for-art laws aimed at beautifying state-funded buildings.² The federal government and many local communities have also established such programs. This action is a recognition that the sterile, functional architecture that has long dominated government buildings is outmoded, that today Americans want building environments filled with beauty and grace.

Percent-for-art is a complex legislative issue. As the accompanying chart indicates, the state laws vary widely and embody different approaches to achieve common goals. Among the many questions that should be carefully considered by the legislature are:

* WHAT PERCENTAGE OF THE BUDGET SHOULD BE ALLOCATED?
HOW IS IT TO BE CALCULATED, AND IS IT A MINIMUM OR
A MAXIMUM, MANDATORY OR OPTIONAL?

Most state statutes specify 1%, some indicate not less than 1%, and others, not more than that amount. Maine's law allocates the lesser of 1% or \$25,000. Thus for any building costing more than \$2.5 million, the amount for art will be less than 1%.

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ADMINISTRATIVE AGENCY

WHICH BUILDINGS

ELIGIBLE ART

SELECTION PROCESS

TYPES OF ACQUISITIONS

CALCULATION AND USE OF FUNDS

ARTISTS

MISCELLANEOUS

* Expresses legislative intent	*	*	*					*		*		*	*	*			
* Art integrated/attach/portable	*		*			*		*	*		*	*	*	*	*		*
* Art's public display required	*			*			*				*						
* Addresses maintenance/repair	*					*				*	*	*					*
* Art loaned/displayed other bldg						*		*			*			*			*
* Allows admin. agency rules		*		*				*			*						

All but five states have enacted laws that require the specified percentage to be included. California's experience with a non-mandatory law illustrates the potential pitfalls of that approach. That state's statute requires the governor to include an appropriation for art in state buildings in the annual budget bill, which is subject to legislative approval. Since the program began in 1977, the governor's four recommendations have ranged from \$300,000 to \$1.4 million. With one exception, the legislature has reduced the recommended amount, and once it was eliminated entirely. The Arts Task Force urges states to enact mandatory percent-for-art measures that are not influenced by shifting political winds.

Most states have ignored the question of how to calculate the percent-for-art figure for each building. However, several states have specified that the amount be based on actual construction costs and not include planning, land acquisition, site work, or other non-construction expenditures.

*WHICH BUILDINGS SHOULD HAVE ART AND WHICH KINDS OF ART, AND SHOULD APPROPRIATIONS BE SPENT ON SPECIFIC BUILDINGS OR SHOULD THEY BE POOLED?

The inclusion and exclusion of designated buildings determines the scope of each state's program and is therefore a crucial consideration. Surprisingly, many state laws either do not address this issue or delegate its determination to an administrative agency. In addition to new buildings, each state should decide whether to include building remodeling and/or exclude specific construction. Seven states also impose as an eligibility requirement that the building or remodeling cost must exceed a minimum amount.

The question of eligible art need not be addressed in the state statute. About one-third of the states have adopted one of three different approaches -- a broad specific definition of art, a broad unspecific definition, or no definition. Each approach achieves the same result: The art media are essentially unlimited.³ However, to protect the allocation for art, states should consider excluding landscaping and incidental ornamentation.

The choice between specific allocations or pooling is another important issue. The former ensures that all eligible buildings receive art proportional to facility cost, while the latter provides flexibility and may even result in embellishment of existing buildings or other public places.

Oregon's 1976-1979 program illustrates the pooling approach. With a \$96,115 budget accumulated under a flexible mandatory 1% statute, a public collection of 170 artworks in various media was acquired for public display in and around the Salem State Capitol Mall. The art represents 145 artists and crafts people, 120 of whom live in the state.

*WHO ADMINISTERS THE PROGRAM, AND SHOULD ADMINISTRATIVE COSTS BE DEDUCTED FROM THE PERCENTAGE APPROPRIATION?

Choosing the appropriate administrative agency depends on each state's governmental organization and the administrative capabilities of particular agencies. All but two states involve the state arts agency, but beyond that commonality, great diversity exists.

The source of administrative costs is a thorny problem. Reducing the amount available for art to pay for administration will not be popular, but proper administration is essential to the program's professionalism and ultimate success. Provision should be made for administration, either as a portion of the available funding or separately in the administering agency's budget. New Hampshire is the only state to limit administrative costs, providing a maximum 8% of the program money for implementation.

*WHAT IS THE SELECTION PROCESS TO COMMISSION ARTISTS OR PURCHASE ART, AND WHO MAKES THE SELECTION?

Another key decision is the selection process. How and by whom the selection is made ultimately affects the quality of the art and its public acceptance. Open competition is the most democratic method but also administratively the most expensive. Commissions limited to a few invited artists are more manageable but may include only "name" artists and limit opportunities for other deserving artists. Direct purchase reduces program costs considerably and provides finished art for immediate display, but purchased art cannot easily be integrated into the building structure and compatible placement may prove difficult.

To make selections, several states have adopted or modified the federal General Services Administration (GSA) model. The building architect initiates the process by including an art-in-architecture proposal in the overall design concept and selecting the type of artwork to be commissioned. The National Endowment for the Arts then appoints a panel of art professionals who

meet with the architect to nominate a list of three to five artists appropriate for that medium. From that list the GSA administrator makes the final selection, after which another panel reviews and approves the chosen artist's design concept. A major criticism of this process is that it involves neither of two groups who will have to live with the art -- the local citizens and the building employees. This unfortunate omission significantly reduces the chance of favorable public acceptance, regardless of the art's quality.

*SHOULD THE STATE'S ARTISTS BE GIVEN PREFERENCE FOR COMMISSIONS, AND SHOULD COMMISSIONED ARTISTS RETAIN COPYRIGHT AND OTHER INTANGIBLE RIGHTS?

Ten of eighteen states have authorized program priority for resident artists. Several of those states extend the preference to former residents, and Nebraska offers preference to regional artists. This provision has been criticized as parochial, and while it may increase the probability of local acceptance, it prevents artists of national stature from competing.

Four state statutes clearly provide that the state gets title to the art. In other states, implementing rules and artists' contracts so indicate. Does this provision mean that the artist is prevented from copyrighting his or her creation and that the state has an unlimited right to sell the art but no responsibility to maintain it or prevent its intentional destruction or mutilation? Thus far, only two state percent-for-art acts have considered these issues. The Arts Task Force, which has expressed its concern for artists' rights through

four recommendations, urges states to consider protecting the intangible rights of artists who are commissioned or whose works are purchased.

While many state percent-for-art measures address some of or all these points, several states have enacted general laws delegating decisions on many of the above issues to the administering body, often the state arts agency. The advisability of doing so has been questioned.

"The wording of the legislation itself should be very specific. We have several loopholes in Alaska's law so that the types of buildings which have to comply with the percent-for-art requirement have not been clearly identified. As a result, a number of dollars originally intended for art and artists has been lost."

--Christine D'Arcy
Visual Arts Director
Alaska State Council on the Arts

PROS

- Public art beautifies and humanizes public architecture.
- Public art works are important to the economic vitality of cities, making them more attractive places to live, work, and visit.⁴
- Artworks acquired under percent-for-art acts are highly visible and receive broad public exposure. They are available for viewing by people of all incomes, not merely those able to pay an admission fee.
- The citizenry supports public art. In a nationwide survey, 87% agreed that a portion of the construction costs for office buildings should be spent on landscaping, attractive interiors, fountains, artworks, and sculpture. Only 8% disagreed.⁵
- Administrative costs generally are low, and the state receives a tangible asset.

- Percent-for-art programs provide much needed employment for artists, who are statistically one of the most underemployed segments of society.

- A society is remembered by its art. Public art created under state percent-for-art laws is a means of preserving our cultural heritage for future generations.

- State art-in-architecture programs set an important example for the private sector to follow and have had a spillover effect on privately funded construction.

- Commissions for state building art projects have greatly furthered artists' careers.

- Percent-for-art is a nonpartisan issue and has been endorsed by both major political parties in their national platforms.

CONS

- Allocating 1% for art is an additional expense in building state facilities and, as such, is inconsistent with the publicly supported movement toward government economy.

- When compared to other state government activities, percent-for-art is not a high priority issue and drains available resources from more important state programs.

- Installation of state-funded art often brings negative public reaction. People are unhappy either about the art or about the fact that their tax dollars funded it.

- Earmarking 1% as an inflexible budget allocation for state building art projects is unwise policy.

- State art-in-architecture programs demand quality works. Yet quality is difficult to define, administrative problems arise, and controversy is inevitable.

- Many artists seeking commissions have had no previous experience creating architectural art. Consequently, public art projects are too often awarded to the same group of artists.

- A state budget squeeze may result in construction cutbacks, in which case percent-for-art may create nothing more than high expectations among artists.

NOTES:

1. Percent-for-art owes its origins to the Treasury Department's Section of Painting and Sculpture (1934-1942), one of four government art programs established during the New Deal era. Unlike other New Deal programs for artists, the Section was not aimed at alleviating artist unemployment, but instead attempted to obtain the best art available. The program has been criticized for seeking non-controversial art and for severely interfering with the artist's work after a contract had been awarded. Interference and censorship have also occurred under the current state programs.

2. See Alaska Statutes Sections 35.27.010-35.27.030; California Government Code Sections 15813-15813.7; Colorado Revised Statutes Annotated Title 24, Article 80.5, Section 5-101; Connecticut General Statutes Annotated Section 4-131a; Florida Statutes Annotated Section 255.043; Hawaii Revised Statutes Section 103-8; Illinois Annotated Statutes Chapter 127, Section 783.01; Iowa Code Annotated Section 304A.10; Maine Revised

Statutes Annotated Title 27, Chapter 16, Sections 451-459;
Michigan Senate Bill No. 2 (1980); Revised Statutes of Nebraska
Sections 82-317 to 82-329; New Hampshire Revised Statutes
Annotated Title 19-A, Sections 8-12; New Jersey Statutes
Annotated Title 52, Chapter 16A, Sections 29-34; Oregon
Revised Statutes Sections 276.073-276.090; South Dakota Statutes
Section 5-14-8.1; Texas Codes Annotated Title 20, Article 601b,
Sections 5.18-5.19; Revised Code of Washington Annotated Chapter
43.17, Section 200; Wisconsin Statutes Annotated Sections 44.51
and 44.57. Seventeen other states have introduced percent-for-art
legislation.

3. In practice, free-standing sculpture is the most often
commissioned art form.

4. For further discussion of the arts' impact and use
as an economic development tool, see page _____.

5. Harris, Louis, Americans and the Arts: A Survey of
Public Opinion, National Research Center for the Arts, Inc. (1973).

ART BANKS

Recommendation: Establish a state art bank through which the state, with the help of experts, purchases artwork by the state's artists to rent or loan for public display in public and private nonprofit facilities. Rental fees are used to purchase new art and for administrative expenses.

"Culture is not inherited -- it is acquired."

French writer Andre Malraux

Alaska and Florida have established art banks, implemented as a state arts agency program and subject to an annual appropriation included in the agency's budget.¹ In fact, most states' arts agency enabling laws permit establishing an art bank program without further legislation.

What is an art bank? If based on the Canadian model, the world's most successful, this mechanism does embody a banking concept: An artist borrows money from the art bank, providing acceptable art as collateral for the loan. The art bank then rents the art for display by government and other designated agencies. The artist retains the right to repurchase the art at the original purchase price plus expenses and an administrative fee.² He or she also retains the copyright.

Since its 1972 inception the Canadian Art Bank has purchased more than 10,000 works from over 1,000 Canadian artists. The bank operates on a \$1 million annual appropriation plus rental fees³ collected from minimum two-year leases to government agencies, hospitals, schools, and charities (museums may borrow without a fee). Three-person expert panels, hired by the bank, review

slides from artists and galleries. About 10% are recommended for studio or gallery visits, again by a three-person panel comprised of the art bank director and two artists, only one of whom is from the area to be visited. Art is purchased at negotiated market value during these visits, subject to final approval by the Canada Council's visual arts officer. Not more than \$23,000 may be purchased from an artist during any year. Slide reviews occur every six weeks, and a rejected artist or dealer may continue to submit, for the screening panels constantly rotate. Quality is the only criterion for purchase.

The Canadian Art Bank, not wanting to compete with commercial art dealers, does not rent purchased works to private individuals or corporations. Rentals are made at 12% of current value per year, which includes shipping, insurance, and installation. Each year the Art Bank exhibits portions of the collection throughout the world and will lease outside Canada at a 24% annual rental. Art bank rental fees are accepted items in Canadian government agency budgets.

Four provincial art banks have been created as spin-offs of the national model.

PROS

- Art banks provide otherwise unavailable opportunities for artists, particularly those in rural and low-income communities.
- Publicly exhibited artworks purchased by art banks beautify public places.

- Public interest in art and cultural activities is heightened by this increased exposure to art.

- State government art banks stimulate the state's private art market.

"The commercial aspect of the art bank to strengthen the art market in Canada has been very successful. Eight years ago the market for contemporary art was rather dismal. Now it has become considerably stronger."

-- Christopher Youngs, Director
Canadian Art Bank

- A properly administered art bank is an efficient, cost-effective state government art program. Rental fees, if charged, defray administrative costs and provide funds for additional purchases.

"The purpose of the art bank is not to make money but rather to expose people to art, educate people, and elevate the visual arts. If we do make money from rentals, it's just a nice bonus."

-- Christopher Youngs

"We do not lease art, we loan it, and I think that is one of our strengths. If the government people had to pay a rental fee, we would not be as successful in loaning out the number of works as we have been. However, that policy may change."

-- Christine D'Arcy, Visual Art Coordinator
Alaska State Council on the Arts

- An art bank is an excellent way for a state to acquire a quality art collection.

- A state art bank complements a percent-for-art program by placing portable artworks in leased and existing state buildings.

- Providing artists a repurchase right allows them to realize the art's appreciated value and recognizes the lag time in public acceptance of art.

CONS

- State government purchases of art will have an inflationary effect on the art market.
- Art banks will create a speculative market for art, unless all purchases are either directly from artists or of works consigned by artists to dealers. However, art banks that purchase directly from artists may strain artist-dealer relationships.
- Art bank purchases that are loaned or leased to government or nonprofit agencies but placed in private offices will be hidden from public view.
- Only so much high quality art exists. Inevitably, art banks will purchase lesser quality works.⁴
- The art bank concept places government in the role of art censor unless the administering agency is given complete freedom.
- Juries of professional artists purchasing art for art banks are likely to be well ahead of public acceptance of art. Controversy is inevitable.

NOTES

1. Alaska's Art Bank has acquired more than 300 works, of which 95% are currently on loan to state agencies. The works, all portable, are placed in public view, primarily in leased buildings where the state's percent-for-art program is inapplicable. Beginning in 1981, Florida's Art Bank will place artworks in existing state buildings not eligible for percent-for-art acquisitions. The Art Bank will acquire

works from Florida artists awarded Fellowship Grants. Artwork valued at 10% of the award will be donated to the state by grant recipients. Other states have state art collections exhibited statewide. Most include annual purchases through artists' competition.

2. The repurchase feature is unique to Canada's Art Bank. Legislation to create an art bank for the United States, The National Art Bank Act of 1978, S. 2645 by New Jersey Senator Harrison Williams, would allow artists to repurchase but to retain only one-half of the resale profit with the other half retained by the art bank. Artists, of course, pay taxes on income from the original purchase by the art bank and from resale.

3. Florida's art bank, beginning in 1981, plans to charge rental fees.

4. This is precisely what has happened in Holland, where a 1956 artists' income maintenance program administered by the nation's welfare department now provides \$40 million annually to some 2,500 Dutch visual artists. The government, through expert panels, commissions artists to create art or purchases already created works. There is general agreement that many works are mediocre and one official says the volume of art created has caused "visual pollution." Perhaps the system's chief problem is that it was conceived as and remains a welfare program that does not challenge Dutch artists to progress and excel.

STATE & STATUTORY REFERENCE

Wisconsin (Wisc Stat, Ch 129)	*	*	*	*	*	*	*	*	*	*	*
Texas (Title 132, Art. 9018)				*			*			*	
New York (NY Gen Bus Law, Sec. 219-219a)	*	*	*		*	¹ *		*	*	*	*
New Mexico (NM Stat, Ch 56, Art 11, Sec. 1-3)				*			*	*			
Michigan (Sec. 19.410(1)- 19.410(5))	*	*	*			¹ *		*	*	*	*
Massachusetts (Mass. Ann. Laws, Ch 104A)	*	*	*	*	*	*	*	*	*	*	*
Connecticut (Sec. 42-116k - 116m)	*	*	*	*		*	*	*	*	*	
California (Civil Code Sec. 1738-1738.9)	*	*	*	*	*	*		*	*	*	*

PROVISIONS

The transfer of an artwork to a dealer for sale or exhibition to the public constitutes a consignment.

The art dealer is the artist's agent in holding the work for sale.

The art dealer acts as a trustee in holding money from the sale of consigned art until the artist is paid in full.

The art dealer is responsible for loss or damage while holding consigned art.

Consigned art and the proceeds from its sale are exempt from the claims of the art dealer's creditors.

The artist receives his or her share of the proceeds first in an installment sale, unless otherwise agreed in writing.

A waiver of rights by the artist is void.

A written contract between the artist and dealer is required and must specify (1) a minimum sale price, (2) a payment schedule, (3) the dealer's responsibility for loss or damage while holding the art, and (4) the need for the artist's consent before use or display of consigned art.

Provides a broad definition of art which includes crafts and mixed media works.

The artist's rights pass to heirs after death.

Excludes auction sales.

Specifies a \$50 minimum penalty for violation plus actual damages and attorneys' fees.

Applies to contracts entered into after the law's effective date and may, as specified, apply to prior contracts.

1 - A limited waiver is permitted.

ARTIST-ART DEALER RELATIONS

Recommendation: Provide protection to artists who give their works to art dealers on consignment to sell or exhibit. The dealer acts as a trustee in holding the art and funds from sales. Some laws also protect artists against loss or damage to the artworks while in the dealers' possession and against claims by dealers' creditors.

Eight states have enacted laws defining the relationship between an artist and art dealer when the artist provides artworks for a dealer to sell or exhibit. Six statutes specify that a consignment relationship is created with the dealer acting as an agent and trustee in holding the artist's works and funds from their sale.

The main purpose of these laws is to assist artists in collecting money to which they are entitled. Dealers who misappropriate an artist's funds become subject, as an agent and trustee, to civil damages and to criminal prosecution for embezzlement.

With respect to consigned art, the laws also generally prohibit the dealer's creditors from claiming the art or proceeds from its sale, hold the dealer in possession responsible for its loss or damage, require the artist and dealer to agree on a payment schedule, and void any waiver of rights by the artist.

While providing protection to artists, the laws have not adversely affected reputable art dealers. They do, however, make it more difficult for the few disreputable dealers to take advantage of artists with impunity.

The following chart contrasts provisions of the existing laws.

PROS

- Art dealers experiencing financial difficulties may be reluctant to inform artists of the sale of their works. The trust and agency relationships created by state law increase the likelihood of notice and payment to artists, for violating the law may result in the dealer's criminal and civil liability. Artists, should have fewer problems collecting money owing from sale of their works.

- Without the benefit of this law, artists are reluctant, for professional and economic reasons, to take legal action against dealers. The law provides artists with a means to press for money due, even absent a written agreement.

- Without this statute, artists not infrequently lose consigned art or proceeds from its sale to dealers' bankruptcy creditors, unless artists comply with the filing requirements of Section 2-326 of the Uniform Commercial Code. While this result may be justified in commercial transactions between individuals generally engaged in business, it is not appropriate between parties with greatly differing business skills.

- Between the artist and dealer, the latter is in a better position to insure consigned art against loss or damage. Holding dealers strictly liable regardless of fault prevents their contractually disclaiming responsibility for loss or damage caused by their negligence.

- Connecticut's and Wisconsin's laws require written consignment agreements between artists and dealers, and Wisconsin's statute imposes \$50 minimum damages for violation of that provision. Other statutes encourage written agreements

to determine payment schedules. The requirement of written agreements may motivate artists to develop business skills appropriate to their trade.

CONS

- State regulation of artist-dealer relations is unnecessary and ineffective. The dealer is not required to show compliance until after default, and dealers who want to violate the law will probably continue to do so with impunity. Violation of this statute will not receive a high prosecution priority, and artists will be reluctant to press criminal charges or pursue legal action.

- The statutes provide inflexible rules for contractual relations that should remain flexible.

- The laws discriminate against other consignors who must meet the requirements of Uniform Commercial Code Section 2-326(3) or risk losing property to the dealer's bankruptcy creditors.

- Because small galleries often find the cost of casualty insurance prohibitive, they will have to act as self-insurers and may be forced out of business in the event of a loss.

- The trust relationship may create conflict-of-interest problems for dealers representing more than one artist. The dealer cannot recommend the works of one artist over another without breaching the trustee's duty of loyalty. However, the dealer who fails to promote an artist's work properly may breach the trustee's duty of diligence.

ART PRESERVATION

Recommendation: Provide artists, and in some cases the public, the right to bring legal action against intentional physical defacement, alteration, or destruction of artworks of recognized quality by government agencies or private owners. Both injunctive relief and action for damages may be authorized. Sometimes referred to as "Artists' Moral Rights."

In 1958 a private collector donated the Alexander Calder mobile "Pittsburg" for placement in the Pittsburg, Pennsylvania airport. The Airport Commission positioned the mobile differently from the way Calder had intended, immobilized it, and repainted the black and white mobile in green and gold, Pittsburg's official colors. Although Calder was furious about the changes, he had no legal recourse against the Commission.

In April 1980, the Isamu Noguchi aluminum sculpture "Shinto," which had been suspended in the lobby of the Bank of Tokyo's New York City branch, was cut down, chopped into several pieces, and relegated to a warehouse, all without the artist's prior knowledge or consent. Noguchi's comment upon learning of the action: "It's vandalism, and very reactionary. I should think they'd ask the artist before they did something like that." A bank spokesman reportedly said that Noguchi had not been told of the decision because "the sculpture is the property of the bank." Noguchi agreed that he too had no legal recourse.

Under the laws of more than 60 European and Latin American countries, and more recently of California, both Calder and Noguchi would have a legal remedy. These art preservation laws differ from country to country, but they all include the right of integrity of an artwork.

The California Art Preservation Act,¹ enacted in 1979, allows artists to bring legal action to prevent their works from being intentionally injured or destroyed and to collect money damages when the art has already been harmed. The statute

covers governmental and private owners, but does not permit the general public to protect important artworks. The new statute also:

- * Applies only to original paintings, sculpture, and drawings of recognized quality;

- * Provides rights during the artist's lifetime and, for 50 years after his or her death, to the artist's estate;

- * Excludes commercial art created under a work-for-hire arrangement;

- * Requires a written and recorded agreement between the artist and owner for protection of murals and other art that cannot easily be removed from buildings;

- * Allows artists to waive their rights in writing;

- * Permits artists to alter or destroy their works prior to sale;

- * Enables professionals to frame, conserve, and restore art without liability unless they are grossly negligent;

- * Authorizes a court to award attorneys' and expert witness fees; and

- * Applies to acts that occur after its January 1, 1980 effective date, regardless of when the art was created or purchased.

The law also gives the artist the right to claim or disclaim authorship -- the so-called right of paternity. This right was exercised, for example, by sculptor David Smith in 1960 after he learned that, subsequent to its sale, his sculpture "17h's" had been stripped of its original cadmium red color.

Smith angrily renounced creation of the sculpture, branded it a ruin, and called for laws to protect artists against such intentional acts.

A unique feature of the California act awards punitive damages arising from an artist's lawsuit to nonprofit art-related institutions selected by the court.

PROS

- An artistic creation is more than a tangible, economic commodity; it is a unique expression of the artist's personality. To alter or destroy an artwork intentionally is offensive to the artist and equivalent to a libel against his or her reputation. The artist's intangible, moral rights are also legal rights inherent in the creation of art.

- The public has an interest in protecting cultural resources and preserving recognized artworks. The California law, by including destruction of art among the prohibited acts (not included in most foreign laws), recognizes the public interest in preserving art.

- Alteration of art deprives the public of its right to see the work as the artist intended.

- Art preservation statutes are a natural complement to historic preservation laws.

- Establishing an artist's preservation rights does not violate the art owner's property rights. Art preservation laws are analogous to nuisance and zoning laws under which a "taking" of private property is a legitimate exercise of the state's police power.

- The requirement that art be of recognized quality is a workable subjective standard, which, like other abstract legal concepts, will be determined in part through expert testimony.

- Recognition of the artist's rights of integrity and paternity eliminates the need to allege invasion of privacy, libel, or other historically unsuccessful legal constructions to protect such rights.

- Most artists' lack of bargaining power necessitates art preservation statutes. Even if an artist gains this protection through contract, it is often difficult to assert the reserved rights against subsequent purchasers if no statutory safeguards exist.

- Awarding punitive damages to a third party will deter frivolous lawsuits.

- Although the California law has been carefully limited, it provides artists with important preservation rights.

CONS

- The California law distorts traditional American property law regarding art, which generally recognizes only tangible rights.

- Publicly owned art is already partially protected through the state's general supervisory power over public institutions. To what extent can or should a private owner's home, business, or other property be subject to invasion in order to protect a work of art?

● State laws on this subject will not prevent intentional acts against important art in states that do not pass art preservation laws. This contention is substantiated by the mutilation of the Noguchi sculpture.

● Buyers of art prior to enactment of the new statute may have purchased with the intent of legally altering the art and should not now be prevented from doing so.

● State art preservation laws may be preempted by the Federal Copyright Act if the rights granted are equivalent to those contained in the federal law.

● The new statute is deficient in several respects:

- * By denying the public even a limited art preservation right, the act neglects important works whose creators are either not alive or not interested.² The new law, for example, would not protect the Watts Towers in Los Angeles, even though willful neglect by the responsible public agencies has been charged.
- * In contrast to foreign laws on this subject, California's measure does not provide protection in perpetuity. Does not the public's interest in important art increase as time passes?
- * Foreign laws also establish the artist's rights as inalienable; the California law allows the artist to waive those rights. Most experienced purchasers will require the artist to sign a waiver.
- * The art preservation act applies only to original works of art and does not prevent either distribution of an adaptation of an original work in a mutilated or altered form or destruction of or damage to a work issued as part of a multiple edition. Is not the damage to an artist's reputation caused by these acts just as serious?
- * Only paintings, drawings, and sculpture are protected. The artist and the public have an equal interest in preserving photographs and other graphics, crafts, and works in mixed media.

NOTES

1. California Civil Code Section 987. Similar legislation has been introduced in Iowa, Massachusetts, Oregon, Tennessee, and Washington.

2. Some foreign art preservation laws provide for a government inventory of important artworks. Selected works are protected through a registry system that is similar to the registers of historically significant buildings that have been created by the federal and some state and local governments. The foreign inventories include both publicly and privately owned works, regardless of whether they are in public view. As an incentive for private owners to cooperate, governments agree to provide insurance for and maintenance and restoration of protected art.

ARTISTS' LIVE-WORK SPACE

Recommendation: (1) Allow local governments to establish zones where artists may live and work in buildings in urban areas previously zoned for commercial and/or industrial use and to authorize alternative building code requirements in those areas; or (2) where appropriate, enact a state zoning statute establishing live-work zones.

Artists have been living and working in the same building at least since the Fifth Century B.C. Excavations in Athens have revealed houses containing artists' and artisans' workshops and entire districts devoted to specific crafts. The current American revival of this lifestyle began in SoHo, the area south of Houston Street in Lower Manhattan. There, during the 1960's, large manufacturing lofts, many of which were being abandoned by businesses leaving the city, became a prime location for artists seeking inexpensive studio space. From SoHo, this phenomenon has spread to other urban areas throughout the country.

Visual and performing artists have special locational needs. They require large areas of work and storage space for the practice of their art. Yet their income is frequently limited and cannot support both a residence and a studio. Their needs are well served by joint living and working quarters, particularly if a large amount of space is available at low commercial rents. This was the case in SoHo in the 1960's and is true in many central city areas in the 1980's.

"SoHo was a run down area where artists moved in sub rosa in violation of existing zoning and housing laws and were living in commercial buildings. I am sure there is plenty of property like this in every other old city in America, loft-type buildings that are unused today with large amounts of vacant space. With enabling legislation from the state legislature and cooperation from the city planning department or commission, there can be a change in the zoning providing for a mixed residential and commercial use."

-- New York Assemblyman William Passannante

The benefits of an artists' influx into run-down commercial areas also inures to the public. Conversion of space to joint living and working quarters provides a new use for decaying structures and encourages building rehabilitation. The relocation of visual and performing artists into downtown areas leads to a resurgence of cultural activities. The overall effect is the central city's revitalization.¹

Recognizing the needs of the artist and the potential public benefit, New York and California² have enacted enabling laws permitting local governments to rezone commercial and industrial areas for use as both working and residential space and to adopt alternative building, health, and safety regulations consistent with their residential use.³ The New York law, enacted in 1964 and since amended three times, is more specific and restrictive in specifying building, health, and safety requirements. In contrast the 1979 California statute requires only minimum kitchen and bathroom facilities but permits local government to specify other standards.

Some considerations that should be addressed by state legislatures considering live-work measures are:

- * Should occupancy of live-work space be limited to artists? If so, how is that limitation to be enforced? New York has tried an artist certification procedure without success.

- * How can artists who rehabilitate decaying buildings for live-work use avoid becoming the victims of their own revitalization efforts? Renovation and conversion to residential use often increases property values. When rents in turn escalate,

artists are forced to relocate and sometimes to rehabilitate another nearby area. (This cycle has occurred in New York City.⁴) Possible solutions include rent control (historically unsuccessful), using government loan subsidies and other incentives to encourage purchase of live-work buildings by artists' cooperatives, and mandated long-term lease privileges for artists.

"Artists are being taken advantage of. They move into a depressed area, fix it up with studios, the area becomes attractive -- coffee houses, galleries, boutiques move in -- and we get moved out because we can't afford increasingly higher rent demands. In fact, we're the first stage of urban renewal and we get kicked out for our pains."--An artist attending a San Francisco live-work conference.

* Should property tax abatement provisions be adopted to encourage building owners to rehabilitate commercial and industrial buildings? New York's law offers owners a 12-year exemption from increased tax assessments resulting from building improvements.

* Is a live-work zone for artists a permissible state zoning classification or is it discriminatory legislation violative of equal protection standards? (A statement of legislative intent such as that found in the New York and California statutes will likely withstand constitutional challenge.)

* Should live-work statutes also provide for conversion of residential housing to studio use?

* How can live-work enabling laws be drawn flexibly so as to provide for future live-work needs and opportunities?

PROS

- Establishment of joint living and working zones with alternative building, health, and safety requirements fulfills economic and space needs of artists and other professionals.

- Artists' live-work enclaves can help revitalize portions of decaying inner cities and other depressed areas.

- The presence of artists is essential for a vital cultural environment. Communities providing joint residential and working quarters will attract resident artists.

- Artists' conversion, rehabilitation, and use of existing structures are preferable to demolition and new construction, the inevitable result of continued decay and neglect of older buildings.

- Allowing artists to renovate vacant, decaying buildings is a cost-efficient urban renewal method that can have a profound, beneficial economic impact on central city areas.

- Artists' live-work statutes, if carefully drawn, can effectively advance historic preservation principles.

- Forcing artists to live under illegal conditions encourages disrespect for the law and creates the constant threat of discovery and ultimate eviction. Government has a responsibility to legitimate a significant, positive social phenomenon.

CONS

- Permitting joint living-working quarters in outdated, decaying commercial buildings encourages substandard residential occupancies.

- Governments that allow relaxed code standards to accommodate artists' space needs abandon their responsibility to protect the public health and safety.

- Enforcing alternative building, health, and safety standards greatly increases the workload of local building departments at a substantial cost to taxpayers.

- State laws in this area may actually hinder the movement of artists into central cities. Legalizing live-work classifications may result in city inspectors' vigorous enforcement of building codes, which, even if relaxed to accommodate live-work occupancies, will greatly increase artists' rehabilitation costs.

"Most artists simply cannot afford the cost of code compliance." -- Arielda Sikora, City Planner for Los Angeles

- If residential use of vacant space in commercial buildings is sound public policy, access to that housing should not be denied to non-artists in need of low rental housing.

- Unless joint living and working space is permitted in multiple geographic areas of a city, artists' ghettos will emerge.

NOTES

1. For a discussion of the economic development role of artists' central city enclaves, see pages _____.

2. New York Multiple Dwelling Law, Article 7-B, Sections 275-279; California Health and Safety Code Section 17958.11. Article 22 of the Massachusetts State Building Code acknowledges that buildings erected before codes were enacted cannot comply strictly with the standards applicable to new residential buildings. This recognition has facilitated residential use of older commercial buildings, although artists must still apply for live-work occupancy through local agencies. A 1980 Maryland resolution (HJR 106) would have encouraged establishment of live-work zones, but was not enacted. Minneapolis and Seattle have adopted ordinances permitting artists' residential use of commercial and industrial buildings.

3. Zoning revision is not enough. A flexible approach toward health, safety, and occupancy standards is required if conversion of vacant commercial and industrial space to residential living is to be economically feasible.

4. From SoHo, the legal live-work area expanded to include first NoHo and later Tribeca. This migration has earned a name -- the SoHo Shuffle.

RESALE ROYALTIES

Recommendation: Provide artists with a percentage of the resale price of their artworks, provided that the resale is profitable to the seller and the resale price is in excess of a specific minimum amount.

In 1958 Robert Scull, New York taxi magnate and art collector, purchased Robert Rauschenberg's painting, "Thaw," for \$900. In 1973 Scull sold it for \$85,000. Rauschenberg got nothing on the resale.

"What would have happened if Robert Rauschenberg had stopped painting in 1958? What are the chances that 'Thaw' would have resold 16 years later for \$85,000? It is Rauschenberg's history as an artist, his investment in his career, that gave reason for the market value of 'Thaw' to rise. In this respect artists earn a royalty on the resale." Richard Mayer, West Coast Regional Vice-President, Artists Equity Association

This famous transaction dramatically illustrates the need for resale royalties, the most controversial of the recommended legislation affecting artists' rights. Introduced in seven states, but enacted only by California (1976),¹ such royalty legislation allocates living artists a percentage of their works' resale price² if (1) the resale is profitable to the seller and (2) the resale price exceeds a specific amount.

Resale royalty statutes, which are supported by most artists but opposed by most dealers and collectors,³ have existed in Europe since the 1920's and are currently the law in France, Germany, Italy, and eight other nations. This droit de suite, which roughly translates as "proceeds' right," is equivalent to the residual financial interest retained by a composer of a musical

composition, the screenwriter of a film, the author of a book, play, or television show, or other artists when their works are performed, broadcast, or reproduced.

In California the law applies only to original paintings, sculpture, or drawings⁴ resold either in California or by a seller who resides in California. In a lawsuit filed shortly after its January 1, 1977 effective date, a cadre of collectors and dealers challenged the law's constitutionality on several grounds, including preemption by the Federal Copyright Act. However, both a Los Angeles federal district court judge and the Ninth Circuit Court of Appeals have upheld the act's constitutionality.⁵ The March 23, 1978 district court opinion states in part:

"Not only does the California law not significantly impair any federal interest, but it is the very type of innovative lawmaking that our federalist system is designed to encourage. The California Legislature evidently felt that a need existed to offer further encouragement to, and economic protection of, artists. That is a decision which the courts shall not lightly reverse. An important index of the moral and cultural strength of a people is their official attitude toward, and nurturing of, a free and vital community of artists. The California Resale Royalties Act may be a small positive step in such a direction."

California's statute also (1) prevents the artist from waiving the royalty, unless an amount greater than 5% is provided for by written contract; (2) requires the California Arts Council to become involved in locating artists entitled

entitled to royalties if sellers are unable to do so;

(3) allows an artist to sue to collect a royalty within the later of three years after the resale or one year after its discovery; and (4) applies to artworks created both before and after its operative date.

PROS

- The resale royalty allows artists a benefit similar to that which authors and composers derive from the reproduction or performance of their works. The Federal Copyright Act does not authorize compensation for most sculptors and artists and is not frequently used by fine artists.

- Because the public is generally slow to understand and appreciate art, artists often are unable initially to sell their works at "true" value. The resale royalty in part remedies this situation and allows artists to benefit as their work appreciates.

- Artists have an inherent disadvantage in bargaining and are often in too weak a position to extract resale royalties by contract. Resale royalty legislation allows artists to

turn to government to act as their bargaining agent. Thus these statutes are analogous to consumer protection laws.

- Resale royalties grant legal recognition to the continuing relationship between artists and their works. The state has an interest in protecting its cultural heritage and encouraging artistic endeavor, and the resale royalty, by rewarding artists who produce, furthers this interest.

- Some businesses use profit-sharing plans as incentives for workers. The resale royalty is such a program in that it both allows artists to share in their work's future earnings and stimulates them to produce.

- In time the resale royalty will be accepted. Current sentiment against resale royalties is not unlike the initial reaction against the 1909 Copyright Act. Today, copyright is universally accepted in the arts and literature.

- Enactment of resale royalty laws by a significant number of states may result in formation of a private art royalty collection company similar to ASCAP and BMI in the recording industry.

- Proceeds to artists from resale royalties are not great, but they do have symbolic value. Asserting this economic right through the law forces a reassessment of the artist's proper role within the market place. This utility far exceeds the economic benefit it confers.

CONS

- The resale royalty is equivalent to a tax upon the art market. Money that otherwise would have been invested in fine art will shift to other collectibles and thus ultimately harm the artist by narrowing the art market.⁶

- The resale royalty is based upon an outdated notion of starving artists unable to care for themselves.

- The resale royalty benefits only a small number of well-known, established artists. If the states want to provide support for visual artists, they should either give art favored tax status as an investment form or enact percent-for-art and art bank statutes. These approaches would better serve that goal.

- There is a trend away from single works of fine art and toward prints and multiples, both of which are protected by copyright. Therefore, the resale royalty is archaic and unnecessary.

- The artist does not bear any part of the art collector's ongoing expenses, such as insurance and conservation, and thus should not benefit from resale.

- Many other residual financial interests for non-visual artists are contractual rather than statutory, and the ability to bargain through contract should also control the art royalty.

- The California Resale Royalty Act is dependent on resale during the artist's lifetime. Statistics indicate that not more than one-third of all eligible artworks will be resold during that period.

● Resale royalty laws are unenforceable, especially if enacted at the state level. If the resale is between two private parties, or even through a gallery or at auction, the artist may not become aware of the transaction. If enforcement is left to the artist, the money involved usually does not justify the expense of a lawsuit, unless state law includes reasonable attorney's fees as part of the award. (The California statute does not.) If the state is involved in enforcement, expenditure of taxpayers' money may not be justified, given the amount of the royalty and the relative importance of resale royalties compared to other state enforcement responsibilities. With the current volume of royalties, enforcement through a private collection company is not likely.

NOTES

1. California Civil Code Section 986. The California law provides artists 5% of the gross sales price on profitable resales over \$1,000.

2. Another method, which may be more equitable but also more difficult to enforce, would be allocating the artist a larger percentage, perhaps 15%, of the increment between the seller's purchase and selling prices.

3. Collector Scull, at a September 1974 symposium, supported a modest, manageable royalty that, he believes, would not adversely affect the art market.

4. Less justification exists for providing resale royalties with respect to fine art issued in multiple editions and protected by copyright.

5. Morseburg v. Balyon, U.S. Ninth Circuit Court of Appeals No. 78-2129, June 17, 1980. Not decided in the lawsuit was the legality of California's applying the royalty to an out-of-state resale of a qualifying artwork owned by a California resident.

6. This fear has not been realized either in Europe or in California.

ARTISTS' INCOME TAX DEDUCTIONS

Recommendation: Enable professional artists, for state income tax purposes, to deduct the fair market value of artworks donated to museums and other charitable organizations. Current law limits the artists' tax deduction to the cost of materials.

One legislative issue of great concern to artists is the current federal and state income tax system that limits to the cost of materials their deduction for artworks donated to museums and other charitable organizations.

In 1979 and 1980 four states -- Kansas, Oregon, California, and Maryland¹ -- changed their laws to allow artists a full fair market value charitable contribution deduction for donated art. Other states are expected to follow suit during the next several years.

Until 1969 the income tax laws allowed artists the greater deduction. However, that year the federal law was changed and within several years, all states except South Carolina applied the cost-of-materials rule.²

Artists are frequently asked to donate artworks but feel penalized at being unable to take the same deduction provided to art collectors. Not surprisingly, since the laws were changed, donations by artists to museums and other public institutions have dropped dramatically. For example, after 1969 New York's Museum of Modern Art experienced a decline of over 90 percent in the number of creator-donated works.

Qualifications for the deduction differ under the four state laws and South Carolina's regulations. All five states require an independent appraisal to substantiate the value of the donated art. Kansas limits qualifying donations to nonprofit galleries and museums supported by public funds, and Maryland,

to museums in the state open to the general public. The other three states allow donations to museums, other charities, and government agencies.³

California and Maryland limit the fair market value deduction to artists who earn a significant portion of income from the sale of their art, and Maryland further limits the deduction for donated artworks to 50 percent of the artist's gross income that year. South Carolina, California, and Maryland qualify artistic, literary, and musical creations for the increased artist tax deduction, while Kansas and Oregon limit the higher deduction to visual art. Finally, California denies the greater deduction to elected officials donating letters and other memorabilia written while holding office and related to the official's duties.

PROS

- A fair market value state income tax deduction for donated artworks offers artists a measure of tax fairness by providing them the same income tax treatment as collectors receive.
- The valuation of art for gift and death tax purposes is fair market value, and, in order to achieve consistency, this same valuation should be used for charitable contributions.
- The resulting state revenue loss is insignificant.
- Increasing the allowable deduction will encourage artists' donations to museums, other public institutions, and government, so that the public may enjoy the art. In the years since the tax laws were changed to limit deductions, artists' donations to museums and libraries have dramatically declined.

- Tax laws are used to meet society's economic and social needs and consequently favor certain taxpayers. Encouraging artists to share their work with the public serves an important social goal.

- Changing state income tax law may spur Congress to restore the prior federal law.

- Artists' works are capable of objective valuation. Independent appraisal is a sufficient protection against abuse.

CONS

- Art owned by collectors and other non-creators is a capital asset, while art held by the artist is a business inventory item. From a tax law perspective, this difference is a basis for distinguishing between art donations by collectors and artists.

- Artists are professionals and should be treated so for income tax purposes. A doctor or lawyer may deduct the actual costs of materials for pro bono work, but neither may deduct the value of services provided. Similarly, because the value of artworks beyond the cost of materials is entirely due to the artist's labor, no deduction should be allowed.

- If donated art is displayed in public, a public benefit will accrue from applying the fair market value deduction rule to artists. However, the states that have acted do not require public display of artist donated works as a condition of fair market value deductions.

- The exposure and resultant professional enhancement that comes from the presence of their work in prestigious institutions is enough encouragement for artists' donations.

- Changes in state income tax laws will not be a sufficient incentive for artists' donations without a corresponding change in federal tax law.

- Some artists greatly overvalue donated works. This fact was one of the principal motivations for the 1969 amendments to federal law. The requirement of an independent appraisal, while helpful, will not deter artists who are intent on overvaluation.

NOTES

1. See Kansas Statutes Annotated, Chapter 79-32,120; Oregon Revised Statutes, Chapter 316.064; California Revenue and Taxation Code Section 17216.2; and Annotated Code of Maryland Article 81, Section 281.

2. In contrast, in 1969, Ireland exempted resident creative artists from payment of income taxes attributable to the sale of their artwork. The exemption applies to musical compositions, choreographies, authors' new works, paintings, sculpture, and other visual art. Artists pay a tax on income earned from non-art sources. The law does not affect singers, dancers, actors, and other performing artists.

3. California limits donations to nonprofit organizations and government agencies located within the state and also requires that the use of the art by a charity be related to its tax exempt purpose.

4. Inventors, too, receive more favorable tax treatment with respect to charitable contributions than do authors, composers, and artists.

DEATH TAXES

Recommendation: (1) Allow beneficiaries of artists' estates to defer death taxes, and/or (2) allow the death tax to be paid with art as valued by the state death tax appraiser and delivered to an appropriate institution.

In 1965 sculptor David Smith was killed in an automobile accident. Between 1940 and 1963, his galleries had sold only 70 of his pieces, yielding Smith a gross income of \$100,000--an average of less than \$5,000 a year. During the two years before his death, his fame increased, and his gallery sold five pieces for a total of \$108,000--more than his gross earnings for the previous 23 years.

However, at his home Smith left 425 unsold pieces, all subject to death taxes. Because of Smith's growing fame and his final sales, the Internal Revenue Service valued the sculpture at \$5,256,918, an amount that would have created a federal estate tax liability of \$2,444,629 and additional state inheritance taxes for his heirs. The estate had cash assets of little more than \$200,000. Ultimately, a tax court compromised the value to \$2,700,000.

The Smith case prompted painter Thomas Hart Benton to write: "The Feds have got it now so that just by comparing me with market values, they make me a multimillionaire on paper and I have got to pay taxes [on death] for which I have no money . . . the best solution would be to destroy all unsold works before I die."

In May 1976, 67-year-old Arizona artist Ted Degrazia, known worldwide for his portrayals of Southwest Indians, did just that. He transported an estimated \$1,500,000 of his unsold paintings into the rugged Arizona mountains and burned them in protest of laws affecting artists' estates. Degrazia commented afterwards: "My heirs couldn't afford to inherit my works."¹

Several tax reforms have been proposed to solve this serious situation, two of which the Arts Task Force recommends.

First, states should adopt existing federal law² that permits artists' estates to defer death taxes for five years and then pay the taxes in as many as ten annual installments at a low interest rate (4% in the federal code). Deferred payment allows the estate to achieve maximum value through orderly liquidation of a portion of the art each year. It recognizes that artworks lack an inherent book value, opportunities for sale generally are limited, and art should be sold selectively rather than marketed immediately after the artist's death.³ Michigan, Kansas, and California are among the states that have introduced deferred payment bills.

Second, states should follow the lead of Maine, which in 1979 became the first state to allow inheritance taxes to be paid with acceptable art.⁴ The new law requires the state museum commission to make an unappealable determination whether art offered to pay inheritance taxes is acceptable to the state. Acceptable art must be original or noteworthy, must advance

understanding of Maine's fine art traditions or of the fine arts generally, or must contribute to the state's art collection. The commission and the estate's executor must agree on valuation, and the state tax assessor must review the agreement. If the assessor does not accept the valuation, the parties have one further opportunity to agree. If this agreement is also rejected, the art is deemed unacceptable. The measure also limits to \$100,000 the value of art which may be accepted in any year, absent extraordinary circumstances or the willingness of the museum commission to reimburse the general fund for excess amounts. Art accepted in payment of death taxes becomes the property of the state museum.

ARGUMENTS FOR REFORM

- Inheritance tax law requires that property be valued at fair market value⁵ at the date of death and that taxes be paid within nine months after death. These provisions create a severe hardship for artists' estates in light of (1) the uniqueness of each artwork, (2) the tendency of artists to accumulate their art, (3) the knowledge that upon death an artist will produce no more work, (4) the volatile nature of the art market, and most importantly, (5) the inability of the market to absorb a large number of sales within a short time following the artist's death.

- "America is losing thousands of valuable works of art each year as artists destroy their unsold works, rather than place an untold financial burden on their families . . . (I)t is a national disgrace that our current tax system encourages the destruction of our cultural heritage. If this practice continues, future generations will be deprived of the pleasures of viewing contemporary American masterpieces."

-- New York Congressman Fred Richmond⁶

ARGUMENTS AGAINST REFORM

In recent years the federal government and many states have greatly increased death tax exemptions, and several states have repealed inheritance taxes. Revising death tax laws solely for artists' estates is an unnecessary, piecemeal approach to a larger issue.⁷

PAYING DEATH TAX WITH ART -- PRO

- Paying death taxes with art makes the art available for public enjoyment.
- The estate's problem of raising cash to pay inheritance taxes will be solved.
- Allowing death taxes to be paid with art minimizes the possibility of the art's overvaluation by the inheritance tax appraiser or undervaluation by the estate's executors.⁸ Administration of these often complex estates will be greatly facilitated.

PAYING DEATH TAX WITH ART --- CON

- Why should art be acceptable to pay death taxes when real and other personal property is unacceptable? If this proposal is expanded, the state will ultimately have to open an auction house to collect its taxes.
- The state's general revenues will be reduced. This program is equivalent to using inheritance tax revenues to purchase art.
- The value of art is volatile. Although some art acquired through this program may increase in value, some will decrease and may even become valueless.

NOTES

1. Other recent notable estate cases concern Pablo Picasso and Mark Rothko.

2. Internal Revenue Code Section 6166.

3. Typically when large numbers of an artist's works are sold at one time, their value may be discounted as much as 75 percent. This reduction is called a blockage discount. However, in the David Smith case the tax court rejected this concept.

4. See Maine Rev. Stat. Ann. Title 27, Sections 91-93, and Title 36, Section 3688. Bills have been introduced in both houses of Congress incorporating the Maine provisions. S. 1078 is sponsored by New York Senator Jacob Javits, HR. 7391 by Missouri Representative Richard Gephardt.

5. The commonly accepted definition of "fair market value" is "the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts."

6. Congressman Richmond has introduced legislation (HR. 1720) requiring that federal estate taxes be based on the value of the materials used in creating the artwork rather than on fair market value. Under current federal and most state income tax laws this valuation is applied to artists' donations to charity. However, the Arts Task Force recommends that state income tax laws authorize a fair market value deduction for artists' donations of their works to museums, other charities, and government.

See pages_____.

7. According to Colorado Representative Ronald Strahle, legislative discussion of artists' death taxes led in his state to a comprehensive examination and the ultimate repeal of Colorado's inheritance tax.

8. Another approach included in Congressman Richmond's legislation (HR 1720) is to allow the executor sole discretion to determine valuation of each artwork. That value would be the work's basis when it is sold, at which time the government collects income taxes. The government thus gets either a higher death tax upon distribution of the estate and a lower income tax upon subsequent sale or vice-versa. The problem with this approach is that it assumes an uncertain event -- the sale of an artwork.

CONSUMER PROTECTION FOR ART PURCHASERS

Recommendation: Protect purchasers of fine art prints and other art issued in limited editions by requiring art dealers to disclose specific information regarding each piece sold.

It is not surprising that with the 1960's and 1970's boom in the sale of limited edition fine art prints came a flood of forgeries and other fakes and, perhaps more importantly, inexpensive, photomechanical reproductions represented as fine art and sold at high prices to unknowledgeable purchasers.

In response, California, Illinois, Maryland, New York, and Hawaii have enacted laws regulating the sale of fine prints. The following chart sets forth each law's provisions.

	CALIFORNIA (Civil Code Secs. 1740-1745)	ILLINOIS (Chapter 1214, Secs. 361-369)	MARYLAND (Commercial Law Title 14, Secs. 501-505)	NEW YORK (NY Gen Bus Law Secs. 228a-228e)	HAWAII (Title 26, Sec. 481F)
COVERAGE Date	Prints printed after July 1, 1971	Prints printed after July 1, 1972, and sold by noncreator	Prints printed after July 2, 1974	Prints sold after January 1, 1976 regardless of when printed	Prints sold after May 31, 1978, regardless of when printed
Value	Over \$25 unframed Over \$40 framed	Over \$50 unframed Over \$60 framed	Over \$25 unframed Over \$40 framed	Unlimited	Unlimited
PENALTY	Print's value + interest; three times value if willful violation	Print's value + interest; three times value if willful violation + petty criminal offense with \$1,000 maximum fine	Print's value + interest; three times value if willful violation	Print's value, damages, and criminal violation	Print's value + interest; except greater of three times print's value or \$1,000 if willful violation
ENFORCEMENT	Within 1 year of discovery or 3 years of purchase	Within 1 year of discovery or 3 years of purchase	Within 1 year of discovery or 3 years of purchase	Not specified	Within 1 year of discovery or 3 years of purchase
REQUIRED WRITTEN INFORMATION	<ul style="list-style-type: none"> • name of artist • year printed • if limited edition: *no. signed or numbered *no. unsigned or unnumbered *no. any other proofs *no. total edition • status of plate • if other editions: *series no. of current editions *total size of all other editions • number of any prior states of same impression and relation to current edition • if posthumous or restrike edition and if plate reworked • name of printer 	<ul style="list-style-type: none"> • name of artist • year printed • type of print • total size of limited edition • status of plate • if other editions: *no. of editions *series no. of current edition • if posthumous or restrike edition and if plate reworked • name of printer 	<ul style="list-style-type: none"> • name of artist • year printed • if limited edition: *no. signed or numbered *no. unsigned or unnumbered *no. any other proofs *no. total edition • status of plate • if other editions: *series no. of current editions *total size of all other editions • number of any prior states of same impression and relation to current edition • if posthumous or restrike edition and if plate reworked • name of printer 	<ul style="list-style-type: none"> • Any alteration of the plates 	<ul style="list-style-type: none"> • name of artist • year printed • if limited edition: *no. signed or numbered *no. unsigned or unnumbered *no. any other proofs *no. total edition • status of plate • if other editions: *series no. of current editions *total size of all other editions • number of any prior states of same impression and relation to current edition • if posthumous or restrike edition and if plate reworked • name of printer
OTHER PROVISIONS	<ul style="list-style-type: none"> • Seller may disclaim knowledge of any unavailable inform- ation. • Seller who describes print as a "reproduc- tion" need not furnish other information unless the print is part of a limited edition. 	<ul style="list-style-type: none"> • Seller may disclaim knowledge of any unavailable inform- ation. • Seller who describes print as a "reproduc- tion" need not furnish other information unless the print is part of a limited edition. 	<ul style="list-style-type: none"> • Seller may disclaim knowledge of any unavailable inform- ation. • Seller who describes print as a "reproduc- tion" need not furnish other information unless the print is part of a limited edition 	<ul style="list-style-type: none"> • "Signed" means by artist's own hand and signifies examination and approval by artist 	Same as New York and California

However, the laws have been criticized because: (1) they do not require disclosure of other relevant information, including the medium or media by which the print was made, whether the print is a photomechanical reproduction, whether other artists were involved in making the print, and the seller's informational source; (2) some apply only to prints printed after their effective dates; (3) they do not cover other multiples, including photographs, sculpture, and collages; (4) they do not require that buyers be informed of their rights; and, most importantly, (5) because they lack adequate enforcement mechanisms and consequently are largely ignored by dealers and printmakers.¹

PROS

- The dealer or printmaker usually knows much more about a fine print than does the purchaser. Therefore, the "let-the-buyer-beware" principle is especially unfair.

- Relevant disclosures enable buyers to make knowledgeable decisions.

- The required information is easy to obtain and disclose and may be disclaimed if not available.

- Dealers and other sellers are resistant to providing this information voluntarily.

- Without this statutory protection, buyers have to prove either intent to defraud or breach of an express or implied warranty. With this protection, those remedies remain, but buyers who discover that they have been misled will have to show only the lack of a written disclosure.

- By discouraging proliferation of fakes and forgeries, the laws protect artists' reputations.

- Whether a print is actually signed by the artist's own hand is important to its value. Often a dealer will mislead a prospective purchaser by stating that a print is "signed" when in fact only the plate that produced the print has been signed. New York and Hawaii specify that signed means by the artist's own hand.

CONS

- The laws impose a costly and unreasonable burden on dealers and will only increase the price of fine prints.

- Reputable dealers will not use the disclosure if they do not have all required information. Disclaiming knowledge of information is not a viable option, for to do so only arouses the buyer's suspicions, reducing chances for sale.

- The few disreputable dealers, realizing that most buyers will never discover a fraud, will ignore the disclosure requirements and continue to operate with impunity.

- Even if a buyer discovers a fraudulent sale, the chance of action under this type of statute is minimal considering the inconvenience of filing a lawsuit, the usually small amount of money involved, and the lack of provisions for attorney's fees.

NOTE

1. In 1976 California legislators, responding to the enforcement criticism, proposed amendments that would have allowed a buyer who was not furnished the required information to rescind purchase for two years after sale and to recover attorney's fees, regardless of whether the seller knew of the violation or the buyer was damaged! A minor criminal penalty was also proposed. Although the amendments clearly would have strengthened the law, opposition from dealers and printmakers prevented passage. California Assembly Bill 1054, 1975-1976 Session.

NOTE

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BIBLIOGRAPHY

DuBoff, Leonard D., "Controlling the Artful Con: Authentication and Regulation," 27 Hast. L.J. 973 (1976).

Duffy, Robert E., Jr., "Disclosure Requirements in Connection With the Sale of Fine Art Prints," 48 Cal. St. Bar J. 528 (1973).

Goldman, "The Print's Progress: Problems in a Changing Medium," ARTnews, Summer, 1976, at 39.

Hodes, Scott, "Art Legislation for Illinois: A Reality," 60 Ill. Bar J. 370 (1972).

Pollock, "Art Print Legislation in California: A Critical Review," 25 Stan. L. Rev. 586 (1973).

Chamberlain, Betty, "Prints: Can We Legislate?" American Artist, 40:26, (April, 1976).

Wiggin, June and Sandra, Hamish, "On Print Disclosure Legislation," American Artist, 40:58, (April, 1976).

Recommendation: Require art dealers to provide express warranties of genuineness with respect to the sale of limited edition prints and other artworks.

As further protection for art purchasers, the Arts Task Force also recommends specific warranties of genuineness, an approach adopted by New York and Michigan.¹ The two nearly identical statutes² provide that art dealers who sell to anyone other than another dealer and who furnish a written unqualified statement identifying the art's creator warrant that the work was created by that person. However, the laws also allow dealers to be more equivocating. If they chose not to warrant a work, they may attribute it to a particular artist, in which case no certainty exists that that person is the artist. Or they may indicate that the work is of an artist's school, in which case it is not by that artist but rather by a pupil or close follower.

The two statutes also allow dealers to disclaim warranties, provided that the disclaimer specifically states that the seller assumes no risk, liability, or responsibility for the art's authenticity. The disclaimer is ineffective, however, if the work is proved a fake.

The laws' basic purpose is to eliminate questions about whether dealers' representations regarding authenticity are either affirmative statements on which the purchaser may rely or mere opinions. The statutes recognize that buyers do rely on the art merchant's experience, education, and skill.

PROS

- The New York and Michigan statutes provide consumer protection by awarding damages to a purchaser who pays for a genuine artwork but receives only a forgery.

- Because many purchasers are unknowledgeable about authenticity, vast quantities of forgeries flood the market each year.³ As between the dealer and purchaser, the former is in a better position to determine a piece's genuineness.

- Some fakes are so good that they are undetectable even by sophisticated dealers using the latest scientific methods. If new methods subsequently detect a forged artwork, the dealer, rather than the purchaser, should absorb any loss.

- The Uniform Commercial Code warranty provisions do not provide adequate protections for art buyers. The description "Picasso painting" may be interpreted as being merely in the manner or from the school of Picasso. Whether particular dealer representations legally become part of the transaction is unclear. Because the dealer may be puffing, the sales talk may or may not create a warranty. The UCC implied warranty provisions can easily be disclaimed. For all these reasons, specific state laws are necessary to resolve these ambiguities peculiar to art.

- The laws are properly limited to art dealers and written statements and do not cover either transactions between collectors or oral representations.

CONS

• The New York and Michigan statutes merely duplicate the protections provided by the Uniform Commercial Code express and implied warranty provisions (Section 2-313 and 2-314 to 2-315 respectively). The UCC warranties adequately protect art purchasers.

• Authorship, as a major price-influencing factor in the art market, is almost surely a basis of the transaction and is therefore covered by the UCC warranty provisions.

NOTES

1. New York Gen. Bus. Law Article 12-D, Sections 219-b to 219-e; Michigan Comp. Laws Ann. Sections 442.321-.324.

2. The only difference between the two laws is that Michigan's statute specifically limits to the purchase price the liability of a dealer who made a good faith representation of authenticity.

3. There are other approaches for controlling art fraud and fakery. Some states have enacted specific criminal statutes relating to forgery and falsifying art authenticity certificates. See, for example, New York Penal Law Section 170.45, New York Gen. Bus. Law Sections 219-h and 219-i, and Maine Rev. Stat. Ann. Title 17-A, Section 705. The problem with these criminal statutes is that they require a prosecutor to show the faker's or seller's fraudulent intent -- an extremely difficult task. One commentator has suggested that, to make the criminal law workable against art fraud, the passing of the fake as genuine should create a presumption of fraudulent intent. See Bauman, Lawrence Scott, "Legal Control of the

Fabrication and Marketing of Fake Paintings," 24 Stanford Law Review 930 (1972). Another possible although expensive approach is to create a national or state art registry, through which authenticity could be established.

DEPARTMENT OF CULTURAL RESOURCES

Recommendation: Consider the feasibility and advisability of creating a state department to administer programs that may include some of or all the following: state culture, art, library, tourism, and humanities agencies. Some states may place the department secretary or director on the governor's cabinet. Where a state department is not feasible or advisable, program coordination among the various agencies should be encouraged.

In 1971 North Carolina became the first state to create a Department of Cultural Resources for administering state cultural programs. Five other states -- Arkansas, Louisiana, Maine, South Dakota, and West Virginia -- have since followed North Carolina's lead and adopted a department structure encompassing cultural agencies. All six states place the department secretary or director on the governor's cabinet.

The agencies incorporated into each department vary from state to state. The following chart illustrates the differences:

NAMES OF DEPARTMENTS

Department of Arkansas Natural and Cultural Heritage

Louisiana Department of Culture, Recreation, and Tourism

Maine Department of Educational and Cultural Services

North Carolina Department of Cultural Resources

South Dakota Department of Education and Cultural Affairs

West Virginia Department of Culture and History

Arts or Arts and Humanities	Library	History and/or Archives	Historic or Cultural Preservation	Museum	Public Television	Symphony	Tourism
X			X				
X	X			X	X		X
X	X	X	X	X			
X	X	X	X	X		X	
X	X		X		X		
X		X	X	X			

PROS

- Cultural agencies will be more successful in seeking their annual operating budgets if they can act through the coordinated efforts of a department director. According to Sara Hodgkins, North Carolina Secretary of Cultural Resources:

"At budget time, we (the cultural agencies) have political clout as a group that we never had before operating separately."

- More stable funding will allow cultural agencies to concentrate on providing services and expanding cultural activities.

- Incorporating cultural activities into a state department will increase the importance of art and culture within state government, especially if the secretary or director serves on the governor's cabinet.

- A department structure will enhance coordination of activities among cultural agencies, eliminating wasteful duplication of effort and infusing new ideas into each agency. Competition will be replaced by partnership, a change that will facilitate establishment of a statewide cultural network.

CONS

- State cultural agencies, including arts and humanities, libraries, museums, public broadcasting, and tourism, are usually operated through independent councils, boards, and commissions that are less subject to bureaucratic inefficiencies. Decision-making is accomplished by appointed private citizens who are more in touch with public perspectives and whose decisions are more likely to be acceptable to the public.

- Many functions of the cultural agencies are disparate in nature and cannot be effectively woven together in a streamlined department.

- A cultural resources department will result in additional bureaucracy and administrative expense.

- The existing agencies are unwilling to surrender their autonomy. If a department is created, the commissions', boards', and councils' current policy-making authorities will probably be retained. What then is accomplished by the reorganization?

- A department secretary or director with ultimate control of state cultural programs may become a culture czar.

COMPOSITION OF STATE ARTS AGENCIES

Recommendation: Consider the feasibility and advisability of (1) legislative representation on or appointments to the state arts council or commission, and (2) one or more professional visual, literary, or performing artists on the council or commission.

Legislative Representation and Appointments

Four states -- Maryland, Ohio, Pennsylvania, and Washington -- appoint state legislators to serve on the state arts agency council or commission. In two others -- California and Connecticut -- the legislative leadership of each house appoints council or commission members.¹ In Connecticut, in fact, the legislature appoints 20 of the 25 commission members, 10 appointed by each house, with the other five by the governor.

What has been the effect of this direct legislative involvement? Generally, legislators have become advocates for state arts budgets and programs.

"In Ohio the arts in effect have their own lobbyists in the four legislators who serve as non-voting members of the arts council."

-- Ohio State Senator Stanley Aronoff

Also, the legislator-members can advise the councils and agencies about what is feasible programmatically and fiscally and can serve as conduits for grassroots arts advocacy input and support.

"Since its inception Delegate Pauline Menes and I have served on the Maryland State Arts Council as designees of the President of the Senate and the Speaker of the House, respectively. On balance, I think our being members has worked very well. Many legislators still consider the arts to be a frill, and the Arts Council budget is invariably scrutinized by the appropriations committees.

As legislators serving on the Council, we have become familiar with policy, procedures, and programs and are the leading advocates for the arts in our respective chambers. A danger in having legislators serve on the Council is that we could lose objectivity--the old 'not-being-able-to-see-the-forest-for-the-trees' bit.

Despite inherent dangers of legislative members serving on executive boards, I believe an exception should be made in the area of the arts, at least until we have more enlightened thinking in this country."

-- Maryland State Senator Julian Lapidés

In contrast, arts council appointments provide less direct legislative involvement. Unless coordinated among both houses and the governor, appointments may be contrary to diverse geographic council membership, which is required by several states. Also, some states statutorily or constitutionally place the power to appoint executive boards exclusively with the governor. Consider these differing comments:

"I think it is an executive function, and you politicize the arts council by getting legislators involved in the appointment process."

-- Maryland State Senator Julian Lapidés

"When it is budget time, the arts people don't go see the governor. They come to see us [the legislators]. They put the load and the heat on us. . . . One of the ways we can do more for the arts in our states is by becoming directly involved in making appointments."

-- New York Assemblyman William Passannante

Professional Artists Representation

Utah is the only state that requires professional artist representation on the state's arts council, specifying one representative for each of eight different arts disciplines on the thirteen-member body. However, many other states encourage the appointment of people with professional competence and experience in the arts. Ohio requires that "at least a majority

of the members of the council shall be persons other than professional artists."²

Utah has experienced positive results from its council composition. According to Assistant Director Arley Curtz, "We have people making policy who understand the arts."

The problem of unrepresented arts disciplines and arts community components demanding "their" council positions has not arisen. "Other disciplines and components of the arts community are well represented on our 14 advisory panels that accomplish much of the nuts-and-bolts work of the council," Curtz said.

A 1966 National Endowment for the Arts survey of the 28 existing state arts agencies found only eight professional artists among the 196 council and commission members. Today, most states, while not mandating artists representation do seat at least one professional artist. Is the flexible approach better? One argument in its favor is that an effective state arts program depends on cooperation among artists, arts institutions, community arts agencies, arts advocates, arts educators, business, government, and interested citizens. This essential partnership will not be easily developed if the state's enabling statute inflexibly specifies arts council membership.

NOTES

1. See Maryland Ann. Code Art. 41, Sec. 399(b)(ii); Ohio Appropriation Bill No. 204; Pennsylvania Stat. Ann. Title 71, Sec.1530.1; Washington Rev. Code Ann. Sec. 43.46.020; California Gov't Code Sec.8751(a); Connecticut Gen. Stat. Ann.

Sec.10-369(a).

2. See Utah Code Ann. Sec.65-2-4 and Ohio Rev.Code Ann. Sec.3379.02. Other representative provisions are New York Exec. Law Sec.671(1), Kansas Stat. Ann. Sec.74-5202, and Idaho Code Sec.67-5602.

Historic Preservation Recommendations:

1. Offer a tax benefit for preservation of officially designated historic buildings.

State law which could be modeled after the Federal Historic Structures Tax Act would make structures on the National Register of Historic Places eligible for such a tax benefit. The benefit would come in the form of an accelerated write-off of depreciation. The incentive would make renovation of historically significant buildings as financially attractive as new construction.

The federal tax benefits come in the form of 1) rapid amortization and 2) accelerated depreciation. State statutes should be tailored in the same direction.

2. Legislation to encourage states to inventory their state-owned buildings and to evaluate their historic and architectural quality. This legislation or a separate piece could give priority to preserving the exteriors of buildings deemed significant and offer incentives to recycle their interiors for contemporary state use.

This is an area a few states have addressed. There are a number of sound and historic state buildings that can be recycled for contemporary uses. The tendency is to build new structures. State policies to preserve the best of state-owned structures need to be strengthened.

3. Protective legislation for "National Historic Landmarks." This is a designation granted by the Federal government for historic sites which possess national significance.

This is a small list of the most significant structures in historical and architectural terms -- in each state. In Minnesota, for example, there are 17. States should enact the strongest possible protective legislation for these structures and sites.

4. Develop a state register of historic places. This should include legislation to protect publicly owned sites (those subject to state jurisdiction). Minnesota has had such a register since 1965 and it has preserved at least a dozen sites from demolition, encroachment and other adverse effects.

Such a register with protective provisions gives historic preservation a voice in the governmental discussions and decisions that weigh the advantages of new development against those of preserving the best of the old sites and structures.

Enclosed is a copy of the Minnesota register.

5. Grants for providing qualified people to work in smaller communities to identify significant buildings.

The small community is in urgent need of professional help and guidance. Federal preservation programs increasingly favor urban areas to a highly inequitable degree. The states should fill this vacuum and do more to provide technical assistance on the inevitable questions of:

- 1) What is historic?
- 2) What historic places should be preserved?
- 3) What historic places feasibly can be preserved?

6. Grants to educate consultants on the value of adaptive use and to train them to develop plans for a community prior to allowing developers to move in.

One of the lessons learned from several years of Historic Preservation efforts is that small grants for training and planning in advance of larger construction grants are a good economy measure. \$1,000, for example, to conduct workshops for persons new at preservation have been highly productive. The recommendation here is not to invent something new but to expand what has already begun.

138.40 COOPERATION OF STATE AGENCIES; DEVELOPMENT PLANS. Subdivision 1. The department of natural resources, the department of transportation, and all other state agencies whose activities may be affected, shall cooperate with the historical society and the state archaeologist to carry out the provisions of sections 138.31 to 138.42 and the rules and regulations issued thereunder, but sections 138.31 to 138.42 are not meant to burden persons who wish to use state property for recreational and other lawful purposes or to unnecessarily restrict the use of state property.

Subd. 2. State and other governmental agencies shall comply with and aid in the enforcement of provisions of sections 138.31 to 138.42. Conservation officers and other enforcement officers of the department of natural resources shall enforce the provisions of sections 138.31 to 138.42 and report violations to the director of the society. When archaeological or historic sites are known or based on investigations or are suspected to exist on public lands or waters, the agency or department controlling said lands or waters shall use the professional services of archaeologists from the University of Minnesota, Minnesota historical society, or other qualified professional archaeologists, to preserve these sites. In the event that archaeological excavation is required to protect or preserve these sites, state and other governmental agencies may use their funds for such activities.

Subd. 3. When archaeological or historic sites are known or suspected to exist on public lands or waters, the agency or department controlling said lands or waters shall submit construction or development plans to the state archaeologist, and the director of the society for review at the time bids are advertised. The state archaeologist and the society shall promptly review such plans and make recommendations for the preservation of archaeological or historic sites which may be endangered by construction or development activities.

[1963 c 5 s 10; 1969 c 1129 art 3 s 1; 1971 c 48 s 4; 1976 c 166 s 7]

138.41 PENALTIES. Subdivision 1. **Willful violations.** Whoever willfully violates section 138.33, or willfully defaces, injures, destroys, displaces, or removes any object or data belonging to the state, or willfully interferes with evidence or work on any state site or other site for which a license has been issued, or willfully violates any other provision of sections 138.31 to 138.42, or the rules and regulations issued by the director of the historical society is guilty of a gross misdemeanor.

Subd. 2. **Other penalties.** The director of the Minnesota historical society may suspend or revoke the license of any licensee, or refuse another license, or initially refuse a license to any person who has violated a provision of sections 138.31 to 138.42, whether the violation is willful or not. Also, the director may refuse to name a school or a scientific institution as the custodian of objects or data under any license or agreement whatever, if that school or scientific institution has failed in its duty to care for and preserve objects or data belonging to the state or has failed to make such objects or data conveniently available to students of archaeology.

[1963 c 5 s 11; 1971 c 23 s 12; 1971 c 48 s 5]

138.42 TITLE. Sections 138.31 to 138.42 may be cited as "the Minnesota field archaeology act of 1963."

[1963 c 5 s 13]

HISTORIC SITES ACT OF 1965

138.51 POLICY. It is in the public interest to provide for the preservation of historic sites, buildings, structures, and antiquities of state and national significance for the inspiration, use, and benefit of the people of the state.

[1965 c 779 s 1]

138.52 DEFINITIONS. Subdivision 1. Land or water areas containing historic or archeological value for the purposes of sections 138.51 to 138.63 are designated as "state historic sites." The term "state historic site" includes the items defined in section 138.72.

Subd. 2. [Repealed, 1975 c 353 s 41]

Subd. 3. [Repealed, 1975 c 353 s 41]

Subd. 4. [Repealed, 1975 c 353 s 41]

138.53 HISTORICAL SOCIETIES; HISTORIC SITES

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Subd. 5. [Repealed, 1975 c 353 s 41]

Subd. 6. [Repealed, 1975 c 353 s 41]

[1965 c 779 s 2; 1969 c 9 s 30; 1969 c 1129 art 3 s 1; 1971 c 25 s 26; 1974 c 249 s 2,3; 1975 c 353 s 24]

138.53 STATE HISTORIC SITES, REGISTRY. Subdivision 1. The land and water areas enumerated in this section are hereby designated by law as "state historic sites," and this section is a registry of state historic sites situated on property owned by the state, its governmental subdivisions, the Minnesota historical society, the board of regents of the University of Minnesota, and county historical societies.

Subd. 2. Kathio, owned by the Minnesota historical society, is in Mille Lacs county and consists of approximately 112 acres in sections 27 and 28, township 43 north, range 27 west.

Subd. 3. Minnesota Woman, owned by the state, is in Otter Tail county, and consists of government lot 5, township 136 north, range 43 west.

Subd. 4. [Repealed, 1975 c 353 s 41]

Subd. 5. Continental Divides, Browns Valley, owned by the state, is in Traverse county and consists of section 29, township 125 north, range 49 west.

Subd. 6. Continental Divide, Virginia, owned by the state, is in St. Louis county and is located at the place where U.S. Highway No. 53 crosses the Laurentian Divide north of Virginia.

Subd. 7. North West Company Snake River Post, owned by the Minnesota historical society and the state, is in Pine county and consists of approximately 94 acres located within government lots 3 and 4 and the southwest quarter of the southeast quarter of section 31, township 39 north, range 21 west, including all riparian rights.

Subd. 8. Bourassa's Fur Post, owned by the Minnesota historical society and the board of regents of the University of Minnesota, is in St. Louis county and consists of government lots 1, 2, 3, 4, and 8 in section 22 and lots 23 - 31 inclusive and 23A - 28A inclusive, Chase first addition and government lot 2, except part platted as town of Chase first addition, all in township 67 North, range 17 West.

Subd. 9. Fort Ripley, owned by the state, is in Morrison county and is located within the boundaries of Camp Ripley Military Reservation.

Subd. 10. Wood Lake, owned by the state, is in Yellow Medicine county and is located within the boundaries of Wood Lake State Wayside.

Subd. 11. [Repealed, 1975 c 353 s 41]

Subd. 12. [Repealed, 1975 c 353 s 41]

Subd. 13. Oliver H. Kelley Homestead, owned by the Minnesota historical society, is in Sherburne county and consists of approximately 191.09 acres in sections 14 and 23, township 32 north, range 26 west.

Subd. 14. Wm. W. Mayo House, owned by the Minnesota historical society, is in LeSueur county, and is located at 118 North Main street in the city of LeSueur.

Subd. 15. William G. LeDuc House, owned by the Minnesota historical society, is in Dakota county and consists of a four acre site located in lot 24, Auditor's Subdivision 9, in the city of Hastings.

Subd. 16. Alexander Ramsey House, owned by the Minnesota historical society and the state, is in Ramsey county and consists of lots 11, 12, 13, and 14, or fractional parts thereof, and lots 4, 15, 16, 17, and 18, all in block 28, Rice and Irvine's Addition to Saint Paul.

Subd. 17. [Repealed, 1975 c 353 s 41]

Subd. 18. Minnehaha Depot, owned by the Minnesota historical society, is in Hennepin county and consists of approximately one acre within an area bounded by the Chicago, Milwaukee, St. Paul and Pacific railways, I & M main tract, 50th street, 42nd street, and Minnehaha avenue in the city of Minneapolis.

Subd. 19. [Repealed, 1971 c 688 s 8]

Subd. 20. Jeffers petroglyphs, owned by the Minnesota historical society, is in Cottonwood county and consists of approximately 80 acres in the north half of the northeast quarter, section 9, township 107 north, range 35 west.

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Subd. 21. Lower Sioux Agency, owned by the Minnesota historical society and the state, is in Redwood county and consists of approximately 242 acres in sections 5, 8 and 9, township 112 north, range 34 west.

Subd. 22. Mayowood, owned by the Olmsted county historical society, is in Olmsted county and consists of approximately 10 acres in section 17, township 106 north, range 14 west.

Subd. 23. Solomon G. Comstock House, owned by the Minnesota historical society, is in Clay county and consists of lots 1 through 8, or fractional parts thereof, and lots 17 through 24, all in block 3, Highland addition Number 1, in the city of Moorhead.

Subd. 24. [Repealed, 1971 c 688 s 8]

Subd. 25. Wendelin E. Grimm Homestead, owned by the Hennepin County Park Reserve District, is in Carver county and consists of the south half of the northwest quarter of section 4, township 116 north, range 24 west.

Subd. 26. Folsom House, owned by the state, is in Chisago county and consists of lots 17, 18, 19, 22, 23, 24, 25, and 26, the east half of lot 20, and the east half of lot 21, all in block 34 in the city of Taylors Falls.

Subd. 27. Stumne Mounds, owned by the state, is in Pine county and consists of approximately 62 acres in the north 4 rods of the southwest quarter of the northwest quarter of section 1, township 38 north, range 22 west, and the south half of the northeast quarter of section 2, township 38 north, range 22 west, except that part deeded to the Rural Co-op Power Company.

Subd. 28. [Repealed, 1971 c 688 s 8]

Subd. 29. Alexander Faribault House, owned by the Rice county historical society, is in Rice county and consists of the eastern 105 feet of lot 2, block 76, in the original town of Faribault.

Subd. 30. [Repealed, 1975 c 353 s 41]

Subd. 31. Burbank Livingston Griggs House, owned by the Minnesota historical society, is in Ramsey county and consists of lot 1 in Summit Court, which is a rearrangement of Terrace Court in the city of St. Paul.

Subd. 32. Morrison Mounds, owned by the state, is in Otter Tail county, and is located in the southwest quarter of the southwest quarter of section 4, and in the northwest quarter of the northwest quarter of section 9, township 133 north, range 40 west.

Subd. 33. Fort Renville, owned by the state, is in Chippewa county, and consists of a part of Lac Qui Parle state park.

Subd. 34. Shakopee Historical District, (Pond Mill Site, pre-historical mounds, Shakopee's city), owned by the city of Shakopee, the Scott county historical society, and the department of transportation of the state of Minnesota, is in Scott county, and the city of Shakopee, and consists of the following portion of section 5; township 115 north, range 22 west: Beginning at a point in the center line of the West Bound lane of T. H. No. 101, distant 1671.07 feet (as measured along center line of said lane) east of the west line of section 5; thence north at right angles a distance of 202 feet; thence deflecting to the west at an angle of 87 degrees-48 minutes a distance of 67.75 feet; thence deflecting to the north at an angle of 23 degrees-10 minutes a distance of 251.4 feet; thence deflecting to the north at an angle of 23 degrees-38 minutes a distance of 403.1 feet; thence north a distance of 130 feet more or less to a point 30 feet north of the north bank of the Mill creek; thence easterly and parallel to said north bank to the Minnesota river; thence downstream or easterly along the southerly bank of the Minnesota river to the east line of section 5; thence south to highway No. 101 right of way; thence westerly following north boundary of right of way to its intersection with the line running north from the point of origin.

Subd. 35. Fort Ridgely, owned by the state, is in Nicollet county, and is located within the boundaries of Fort Ridgely State Park.

Subd. 36. Upper Sioux Agency, owned by the state, is in Yellow Medicine county and is located within the boundaries of Upper Sioux Agency State Park.

Subd. 37. Charles A. Lindbergh House, owned by the state, is in Morrison county and is located within the boundaries of Charles A. Lindbergh State Park.

Subd. 38. Grand Mound, owned by the Minnesota historical society, is in Koochiching county and consists of government lot 2, and the west 200 feet of government lot 1, section 32, township 70 north, range 26 west.

Subd. 39. Malmo Prehistoric Site, owned by the state, is in Aitkin county and is located in the northwest quarter of section 32, township 45 north, range 25 west.

Subd. 40. St. Croix Boom Site, owned by the state, is in Washington county and is located within section 15, township 30 north, range 20 west.

Subd. 41. E. St. Julien Cox House, owned by the Nicollet county historical society, is in Nicollet county and is located at 500 North Washington and Sharon streets in St. Peter.

Subd. 42. Hinkly House, owned by the Rock county historical society, is in Rock county and is located at 217 North Freeman avenue in Luverne.

Subd. 43. Hubbard House, owned by the city of Mankato, is in Blue Earth county and is located at 606 South Broad street in Mankato.

Subd. 44. Ottawa Methodist Church, owned by the LeSueur county historical society, is in LeSueur county and consists of lots 4 and 5, block 54, city of Ottawa, township 111 north, range 26 west.

Subd. 45. Saum Schools, owned by the Beltrami county historical society, are in Beltrami county and are located in section 18, township 152 north, range 31 west.

Subd. 46. Swensson House, owned by the Chippewa county historical society, is in Chippewa county and consists of the west half of the east quarter, section 6, township 116, range 39 west.

Subd. 47. Willard Bunnell House, owned by the Winona county historical society, is in Winona county and is located in section 32, township 106 north, range 6 west.

Subd. 48. [Repealed, 1975 c 353 s 41]

Subd. 49. Lac qui Parle Mission, owned by the state, is in Chippewa county and is hereby renamed from Chippewa Mission State Wayside.

Subd. 50. Birch Coulee, owned by the state, is in Renville county and is located within the boundaries of Birch Coulee battlefield state historic site.

Subd. 51. Ruins of Joseph R. Brown House, owned by the state, is in Renville county and is located within the boundaries of Joseph R. Brown State Wayside.

Subd. 52. Old Mill, owned by the state, is in Marshall county, and is located within the boundaries of Old Mill State Park.

Subd. 53. Soudan Mine, owned by the state, is in St. Louis county and is located within the boundaries of Tower Soudan State Park.

Subd. 54. Seppman Mill, owned by the state, is in Blue Earth county and is located within the boundaries of Minneopa State Park.

Subd. 55. Meighen Store, owned by the state, is in Fillmore county and is located within the boundaries of Forestville State Park.

Subd. 56. Split Rock Lighthouse, owned by the state, is in Lake county and consists of six acres within lot 1, section 32, township 55 north, range 8 west and 1.6 acres within lot 3, section 33, township 55 north, range 8 west.

Subd. 57. Site of First Commercial Sawmill, owned by the Minnesota historical society, is in Washington county and consists of blocks 47 and 48, original plat of Village of Marine on St. Croix.

Subd. 58. Irvine Park historic district, partly owned by the city of St. Paul and portions of which are privately owned, is in Ramsey county and consists of the area described in section 138.73, subdivision 24.

Subd. 59. Minnesota State Capitol, owned by the state, is in Ramsey county, located on a tract bounded by University and Aurora Avenues and Cedar and Park Streets.

Subd. 60. Minnesota Historical Society Building, owned by the state, is in Ramsey county, 690 Cedar Street, St. Paul, Minnesota.

Subd. 61. [Repealed, 1975 c 353 s 41]

Subd. 62. Fort Snelling, owned by the state, is in Dakota, Hennepin, and Ramsey counties and is located within the boundaries of Fort Snelling state park.

Subd. 63. Cantonment New Hope, owned by the state, is in Dakota county and is located within the authorized boundaries of Fort Snelling state park.

Subd. 64. Camp Coldwater, owned by the state, is in Hennepin county.

Subd. 65. Old Fort Snelling historic district is in Hennepin county, and consists of the area described in section 138.73, subdivision 13.

Subd. 66. Fort Beauharnois, owned by the state, is in Goodhue county and is located within the boundaries of Frontenac State Park.

Subd. 67. Harkin-Massopust Store, owned by the Minnesota historical society, is in Nicollet county and consists of five and one-half acres more or less of government lot 17, section 30, township 111 north, range 31 west.

Subd. 68. Aerial Lift Bridge, owned by the city of Duluth, is in St. Louis county and is located within the boundaries of Government Park on Minnesota Point in the city of Duluth.

Subd. 69. Noyes Hall, Tate Hall, Old Laundry Building and contiguous open space at the Minnesota School for the Deaf, owned by the state, is in the city of Faribault in Rice county.

Subd. 70. Administration Building, Dining Hall, Chapel, Shops Building, Superintendents House and contiguous open space at the Minnesota State Training School, owned by the state, is in the city of Red Wing in Goodhue county.

[1965 c 779 s 3; 1967 c 54 s 1-4,9; 1969 c 894 s 3-5; 1971 c 688 s 1,2; 1973 c 123 art 5 s 7; 1973 c 316 s 1-9; 1974 c 249 s 4-6; 1974 c 580 s 16; 1975 c 353 s 25-29; 1976 c 106 s 3,4; 1976 c 166 s 7; 1976 c 316 s 2-8]

138.54 [Repealed, 1975 c 353 s 41]

138.55 STATE HISTORIC SITES; REGISTRY, STATE OWNED LANDS ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES. Subdivision 1. The land and water areas enumerated in this section are hereby designated by law as "state historic sites," and this section is a registry of state historic sites situated on property owned by the state and administered by the department of natural resources.

Subd. 2. Source of the Mississippi River, owned by the state, is in Clearwater county and is located within the boundaries of Itasca State Park.

Subd. 3. Blue Mound, owned by the state, is in Rock county and is located within the boundaries of Blue Mound State Park.

Subd. 4. Old Crow Wing, owned by the state, is in Crow Wing county and is located within the boundaries of Crow Wing State Park.

Subd. 5. Traverse des Sioux, owned by the state, is in Nicollet county and is located within the boundaries of Traverse des Sioux State Memorial Wayside.

Subd. 6. Old Crossing, owned by the state, is in Red Lake county, and consists of the northwest half of the northwest quarter, section 33, township 151 north, range 45 west, or Old Crossing Treaty Memorial State Wayside.

Subd. 7. Grand Portage of the St. Louis River, owned by the state, is in Carlton county and is located within the boundaries of Jay Cooke State Park.

Subd. 8. Savanna Portage, owned by the state, is in Aitkin county and is located within the boundaries of Savanna Portage State Park.

Subd. 9. [Repealed, 1973 c 316 s 16]

Subd. 10. [Repealed, 1973 c 316 s 16]

Subd. 11. [Repealed, 1973 c 316 s 16]

Subd. 12. [Repealed, 1973 c 316 s 16]

Subd. 13. [Repealed, 1973 c 316 s 16]

Subd. 14. [Repealed, 1973 c 316 s 16]

Subd. 15. [Repealed, 1973 c 316 s 16]

Subd. 16. [Repealed, 1973 c 316 s 16]

Subd. 17. [Repealed, 1973 c 316 s 16]

Subd. 18. [Repealed, 1975 c 353 s 41]

Subd. 19. [Repealed, 1975 c 353 s 41]

Subd. 20. [Repealed, 1973 c 316 s 16]

Subd. 21. Wegmann Cabin, owned by the state of Minnesota, is in Clearwater county and is located within the boundaries of Itasca State Park.

[1965 c 779 s 5; 1967 c 54 s 6,11; 1969 c 1129 art 3 s 1; 1971 c 688 s 3; 1973 c 123 art 5 s 7]

138.56 STATE HISTORIC SITES; REGISTRY, LANDS OWNED BY THE CITIES AND COUNTIES OF MINNESOTA. Subdivision 1. The land and water areas enumerated in this section are hereby designated by law as "state historic sites," and this section is a registry of state historic sites situated on property owned by the cities and counties of the state of Minnesota.

Subd. 2. Indian Mounds Park, owned by the city of Saint Paul, is in Ramsey county and consists of the northeast quarter of the northwest quarter of section 4, township 28 north, range 22 west.

Subd. 3. Chapel of St. Paul, owned by the city of Saint Paul, is in Ramsey county and consists of lots 2 and 3 and a fractional part of lot 1, block 33, Saint Paul.

Subd. 4. Old State Capitol Site, owned by the city of Saint Paul, is in Ramsey county and consists of Block 6, Bazille's Addition to Saint Paul.

Subd. 5. Minnehaha Falls, owned by the city of Minneapolis, is in Hennepin county and is located within the boundaries of Minnehaha Park, Minneapolis.

Subd. 6. Winona county courthouse, owned by Winona county, is in Winona county and is located between Third and Fourth Streets in the city of Winona.

Subd. 7. The Old Federal Courts building, owned by the city of St. Paul, located on a tract bounded by Washington and Market and Fifth and Sixth streets.

Subd. 8. Ramsey Mill, owned by the city of Hastings, is in Dakota county and is within the boundaries of Old Mill Park.

Subd. 9. Browns Valley Man, owned by the city of Browns Valley, is in Traverse county and consist of block 23, Platteau Addition, city of Browns Valley.

Subd. 10. Washington County Courthouse, owned by Washington county, is in Washington county and consists of block 39, original town plat of Stillwater, township 30 north, range 20 west.

Subd. 11. Wasioja Seminary, owned by Dodge county, is in Dodge county and consists of one rectangular acre embracing the old seminary walls and the evergreens in front, whose dimensions are 11 rods east and west and 14 1/2 rods north and south, lying along the middle of the north line of the public square in the city of Wasioja.

Subd. 12. Taylors Falls Public Library, owned by the city of Taylors Falls, is in Chisago county and is located at 417 Bench Street in the city of Taylors Falls.
[1965 c 779 s 6; 1971 c 688 s 4,5; 1973 c 316 s 11-13; 1975 c 353 s 30-34]

138.57 STATE HISTORIC SITES; REGISTRY, FEDERALLY OWNED LANDS. Subdivision 1. The land and water areas enumerated in this section are hereby designated by law as "state historic sites," and this section is a registry of state historic sites situated on property owned by the United States government.

Subd. 2. Flat Lake Mounds, in Becker county, consists of sections 27 and 28, township 141 north, range 39 west, and is located in Tamarac National Wildlife Refuge.

Subd. 3. Eagle Mountain, in Cook county, consists of sections 34 and 35, townships 63 north, range 2 west.

Subd. 4. Red Pipestone Quarries, in Pipestone county, is located within the boundaries of Pipestone National Monument.

Subd. 5. Grand Portage, in Cook county, is located within the boundaries of Grand Portage National Monument.

Subd. 6. [Repealed, 1975 c 353 s 41]

Subd. 7. [Repealed, 1975 c 353 s 41]

Subd. 8. Duluth Ship Canal, in St. Louis county, is located within the boundaries of Government Park on Minnesota Point in the city of Duluth.

Subd. 9. Minnesota Point Lighthouse, in St. Louis county, is located in the extreme easternmost portion of Minnesota Point in the city of Duluth.

Subd. 10. Major Lawrence Taliaferro's Indian Agency, Fort Snelling, in Hennepin county, is located within the authorized boundaries of Fort Snelling State Park.

Subd. 11. [Repealed, 1973 c 316 s 16]

Subd. 12. Post office, in Brown county, consists of a part of lots 1, 2, and 3 of block 66, north of Center street in the city of New Ulm.

Subd. 13. Height of Land Portage, in Cook county, consists of section 22, township 65 north, range 2 west, and is located within Superior National Forest.

Subd. 14. [Repealed, 1973 c 316 s 16]

Subd. 15. [Repealed, 1973 c 316 s 16]

[1965 c 779 s 7; 1969 c 894 s 6; 1971 c 605 s 1; 1973 c 316 s 14]

138.58 STATE HISTORIC SITES; REGISTRY, PRIVATELY OWNED LANDS.

Subdivision 1. The land and water areas enumerated in this section are hereby designated by law as "state historic sites," and this section is a registry of state historic sites situated on property owned by private persons.

Subd. 2. [Repealed, 1973 c 316 s 16]

Subd. 3. [Repealed, 1967 c 54 s 13]

Subd. 4. Yucatan, in Houston county, consists of the northwest quarter of section 8, township 102 north, range 7 west.

Subd. 5. [Repealed, 1969 c 894 s 9]

Subd. 6. Orwell Farm, in Otter Tail county, consists of the north half of the northwest quarter, section 33, and the south half of the southwest quarter, section 28, all in township 132 north, range 44 west.

Subd. 7. Kensington Rune Stone Discovery, in Douglas county, consists of the southeast quarter of section 14, township 127 north, range 40 west.

Subd. 8. Buffalo Ridge, in Murray county, consists of the northwest quarter of section 26, township 106 north, range 43 west.

Subd. 9. Carver's Cave, in Ramsey county, consists of block 19, the southeast quarter of the southeast quarter, in section 32, township 29 north, range 22 west, in the city of Saint Paul.

Subd. 10. Fort St. Charles, in Lake of the Woods county, is located on Magnuson Island in Lake of the Woods.

Subd. 11. Fort Beauharnois, in Goodhue county, consists of government lot 3, section 12, and government lot 1, section 13, township 112 north, range 13 west.

Subd. 12. [Repealed, 1967 c 54 s 13]

Subd. 13. [Repealed, 1967 c 54 s 13]

Subd. 14. Redwood Ferry, in Renville county, consists of approximately five acres, including lots 2 and 3 of section 5, township 112 north, range 34 west.

Subd. 15. Site of Hanging 38 Sioux, in Blue Earth county, is located at the Historic Marker situated at Front and Main streets in the city of Mankato.

Subd. 16. Old Mendota, in Dakota county, consists of the northwest quarter of section 27, and the northeast quarter of section 28, township 28 north, range 23 west, in the city of Mendota.

Subd. 17. Frontenac, in Goodhue county, consists of the southeast quarter of section 2, the northeast quarter of section 11, and the northwest quarter of section 12, in township 112 north, range 13 west, in the city of Frontenac.

Subd. 18. [Repealed, 1969 c 894 s 9]

Subd. 19. [Repealed, 1967 c 54 s 13]

Subd. 20. Peter Gideon Homestead, in Hennepin county, consists of division 133, part of government lot 6, section 33, township 117 north, range 23 west.

Subd. 21. Sinclair Lewis Home, in Stearns county, is located at 812 Third street south, in the city of Sauk Centre.

Subd. 22. James J. Hill House, in Ramsey county, consists of lots 4, 5, 6, and 7, block 70, Irvine Addition in the city of Saint Paul.

Subd. 23. [Repealed, 1969 c 894 s 9]

Subd. 24. Ole Bakken Cabin, in Polk county, is located in the southwest corner of the southwest quarter of section 29, township 148 north, range 41 west.

Subd. 25. 1848 Convention Site, in Washington county, consists of lots 1 and 2, block 26, original town plat of Stillwater, in township 30 north, range 20 west.

Subd. 26. Site of First Commercial Sawmill, in Washington county, consists of block 47, original plat of city of Marine on St. Croix.

Subd. 27. Nicollet Island, in Hennepin county consists of Nicollet island, government lot 1, section 23, township 29 north, range 24 west.

Subd. 28. Falls of St. Anthony, in Hennepin county, consists of the Falls of St. Anthony located on the east three quarters of the south half of section 23, township 29 north, range 24 west.

Subd. 29. Pickwick Mill, in Winona county, is located within the center of the southwest quarter of section 13, township 106 north, range 6 west.

Subd. 30. Fugle's Mill, in Olmsted county, is located within section 20, township 105 north, range 13 west, where a paved highway crosses the north branch of the Root river.

Subd. 31. Harkin-Massopust Store, in Nicollet county, consists of the southeast quarter of the southeast quarter of section 30, township 111 north, range 31 west.

Subd. 32. Mountain Iron Mine, in St. Louis county, consists of sections 3 and 4, township 58 north, range 18 west.

Subd. 33. Hull-Rust-Mahoning Mine, in St. Louis county, consists of sections 1 and 2, township 57 north, range 21 west.

Subd. 34. Sugar Point, in Cass county, consists of lot 1, section 35, township 143 north, range 29 west, Leech Lake Indian Reservation.

Subd. 35. Pike's Fort, in Morrison county, consists of lot 1, section 7, township 128 north, range 29 west.

Subd. 36. [Repealed, 1967 c 54 s 13]

Subd. 37. St. John's Episcopal Church, in Clay county, consists of lots 13 through 18, block 39, original town plat of Moorhead, in township 139 north, range 48 west.

Subd. 38. [Repealed, 1969 c 894 s 9]

Subd. 39. James J. Hill Farm, Northcote, in Kittson county, is located in section 16, township 162 north, range 49 west.

Subd. 40. Security Bank and Trust Company of Owatonna, in Steele county, is located in the city of Owatonna in township 107 north, range 20 west.

Subd. 41. St. John's Abbey and University Church, Collegeville, in Stearns county, is located in section 1, township 124 north, range 30 west.

Subd. 42. Winnebago Agency House, in Blue Earth county, consists of the north half of the southeast quarter of section 16, township 107 north, range 25 west and is located in McPherson township on the north side of county highway 138.

Subd. 43. Winnebago Agency Store, in Blue Earth county, consists of the northwest quarter of section 16, township 107 north, range 25 west, and is located in McPherson township north of county highway 138.

Subd. 44. Union Depot, in St. Louis county, consists of lots 7, 8, 9, and 10, Third Division, Block C, in the city of Duluth.

Subd. 45. The Gideon Pond House, in Hennepin county, consists of the following portions of section 22, township 27 north, range 24 west: (a) coming at a point in the south line of the southeast quarter of the northeast quarter, 495 feet west of the southeast corner thereof, then west 125 feet, then north par with west line of the southeast quarter of the northeast quarter 232 8/10 feet, then west par with the south line thereof 200 feet, then north par with the west line thereof 166 feet, then west par

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with the south line thereof 104 feet, then north par with the west line thereof to the north line of the southeast quarter of the northeast quarter, then east along the north line thereof 229 feet, then south par with the east line of the southeast quarter of the northeast quarter 233 feet, then east par with the north line thereof 100 feet, then south par with the east line thereof 400 feet, then east par with the north line thereof 100 feet, then south to the beginning ex road; (b) the southern 166 feet of the northern 1090 feet of the eastern 156 feet of the western 500 feet of the southeast quarter of the northeast quarter; and (c) coming at the southwest corner of the southeast quarter of the northeast quarter, thence north 232.8 feet, thence east 700 feet, thence south 232.8 feet, thence east 125 feet, thence south to the shore of the Minnesota river, thence southwesterly along said W line to beginning, except the western 150 feet of the eastern 1059.55 feet of the southern 200 feet of the northern 2735.12 feet in section 22.

Subd. 46. G. A. R. Hall, in Meeker county, consists of a strip of land 45 feet wide off the north side of lot 5, block 54 in the original townsite of the city of Litchfield.

Subd. 47. Camp Pope, in Redwood county and Delhi township, consists of the north half of section 13, township 113 north, range 36 west.

Subd. 48. Bradbury Homestead is in Otter Tail county and consists of approximately 140 acres and the township road which traverses the site in section 22, township 137 north, range 41 west.

Subd. 49. White Oak Point is in Itasca county and consists of the northwest quarter of the northeast quarter of section 13, township 145 north, range 25 west.

Subd. 50. Witch Tree, in Cook county, is located on the tip of Hat Point, east of Grand Portage National Monument and within the Grand Portage Indian Reservation, section 11, township 63 north, range 6 east.

Subd. 51. Pierre Bottineau Gravesite, in Red Lake county, is located in south half of section 29, township 151 north, range 44 west.

Subd. 52. Northern Pacific Shops, in Crow Wing county, is located in the northwest quarter, section 30, township 45 north, range 30 west and the east half of the northeast quarter, section 25, township 45 north, range 31 west, in the city of Brainerd.

Subd. 53. Thoreson House, in Lac qui Parle county, is located in the southwest quarter of section 8, township 118 north, range 42 west.

Subd. 54. O. E. Rolvaag House, in Rice county, is located at 311 Manitou street, in the city of Northfield.

Subd. 55. Mayo Clinic-Plummer Building, in Olmsted county, is located at 110 and 112, Second Avenue, Southwest, in the city of Rochester.

Subd. 56. Volstead House, in Yellow Medicine county, is located at 163 - 9th Avenue, in the city of Granite Falls.

Subd. 57. F. Scott Fitzgerald residence, in Ramsey county, is located at 599 Summit Avenue, in the city of St. Paul.

Subd. 58. Northwest Point, in Lake of the Woods county, consists of government lots 1, 2, 3, and 6, section 15, township 168 north, range 35 west.

Subd. 59. Earle Brown Farm, located in Brooklyn Center, Hennepin county and consists of approximately 7 acres, beginning at the most southerly corner of Tract C, B.C.I.P. Plat 1, thence N. 36 degrees 16 minutes 29 seconds E. a distance of 201.24 feet to the true point of beginning, thence N. 1 degree 27 minutes 09 seconds E. a distance of 535.00 feet, thence S. 88 degrees 32 minutes 36 seconds E. a distance of 538.00 feet, thence S. 1 degree 45 minutes 51 seconds E. a distance of 580.80 feet to a point on the south line of Tract B, thence N. 84 degrees 02 minutes 36 seconds W. a distance of 572.47 feet to the true point of beginning.

Subd. 60. Milwaukee Avenue historic district in the city of Minneapolis in Hennepin county, consists of the area described in section 138.73, subdivision 25.

Subd. 61. Historic hill district in Ramsey county is located within the city of St. Paul and consists of the area described in section 138.73, subdivision 23.

Subd. 62. Fort Pomme de Terre, is in Grant county, Pelican Lake township, and is located within the southwest quarter, section 18, township 130 north, range 41 west.

Subd. 63. August Schell Brewing Company, is in Brown county, and is located on 20th Street South, in the city of New Ulm.

Subd. 64. Frank B. Kellogg House, is in Ramsey county, and is located at 633 Fairmount Avenue, in the city of St. Paul.

Subd. 65. Thorstein Veblen House, is in Rice county, and is located in the north-east quarter of section 12, township 110 north, range 19 west.

Subd. 66. Kettle Falls Hotel, is in St. Louis county, and is located in section 33, township 70 north, range 48 west.

Subd. 67. E. J. Longyear First Diamond Drill Site on the Mesabi Range, is in St. Louis county, and is located in the northwest quarter of the northwest quarter, section 34, township 59 north, range 14 west.

[1965 c 779 s 8; 1967 c 54 s 12; 1969 c 894 s 7; 1971 c 688 s 7; 1973 c 123 art 5 s 7; 1973 c 316 s 15; 1974 c 249 s 8-10; 1976 c 316 s 9-14]

138.585 STATE MONUMENTS. Subdivision 1. The monuments, memorials, tablets, markers and cenotaphs enumerated in this section are "state monuments", officially established as such by the state of Minnesota since 1873.

Subd. 2. Captain John S. Marsh State Monument in Fort Ridgely Cemetery, in memory of Captain John S. Marsh and 25 men killed at Redwood Ferry in the Sioux Uprising of 1862, established in 1873.

Subd. 3. Eliza Miller State Monument, in Fort Ridgely Cemetery, in memory of the valor of Mrs. Eliza Miller during the Siege of Fort Ridgely in the Sioux Uprising of 1862, established in 1877.

Subd. 4. Ness Lutheran Cemetery State Monument, in Meeker county, marks the mass grave of the five settlers killed at the Baker cabin at Acton in 1862, established in 1878.

Subd. 5. Lundborg-Broberg State Monument, in Kandiyohi county, in Lebanon Swedish Cemetery, New London, marks the mass grave of 13 members of two families killed during the Sioux Uprising of 1862, established in 1891.

Subd. 6. Defenders' State Monument, in Brown county, a twenty-four foot granite shaft on Center street, New Ulm, commemorates the two battles fought in this city during the Sioux Uprising of 1862, established in 1891.

Subd. 7. Camp Release State Monument, in Lac qui Parle county, a fifty foot granite shaft in Camp Release Memorial State Wayside, near Montevideo, marks the spot where the Sioux Indians surrendered and released 269 Sioux Uprising captives on September 26, 1862, established in 1894.

Subd. 8. Birch Coulee State Monument, in Renville county, a fifty-two foot granite shaft overlooking highway 19 at Morton, in memory of those who fought in the Battle of Birch Coulee in the Sioux Uprising of 1862, established in 1894.

Subd. 9. Fort Ridgely State Monument, in Nicollet county, a fifty-two foot granite shaft in Fort Ridgely State Park, commemorating the heroism of the fort's defenders during its nine day siege in the Sioux Uprising of 1862, established in 1896.

Subd. 10. Hinckley Fire State Monument, in Pine county, a fifty-two foot granite shaft in Hinckley Memorial Cemetery, marks the mass grave of 248 victims of the Hinckley Fire of 1894, established in 1900.

Subd. 11. Guri Endreson Rosseland State Monument, in Kandiyohi county, in Vikor Lutheran Cemetery, near Willmar, marks the grave of Sioux Uprising heroine Guri Endreson, established in 1907.

Subd. 12. Chief White Cloud State Monument, in Becker county, in Calvary Catholic Cemetery, near White Earth, honoring Chippewa Chief White Cloud, established in 1909.

Subd. 13. Acton State Monument, in Meeker county, a granite shaft at Acton, near Grove City, marks the site of the Howard Baker cabin, where the Sioux Uprising began on August 17, 1862, established in 1909.

Subd. 14. Jackson State Monument, in Jackson county, a granite shaft in Ashley Park, Jackson, in memory of 19 pioneer settlers killed in this area in 1857 and 1862, established in 1909.

Subd. 15. Joseph R. Brown State Monument, in Sibley county, a granite shaft in Brown's Cemetery, Henderson, marks the grave of pioneer Joseph R. Brown (1805-1870), established in 1910.

Subd. 16. Wood Lake State Monument, in Yellow Medicine county, a fifty foot granite shaft in Wood Lake State Wayside, near Granite Falls, in memory of seven soldiers who died in the Sioux Uprising battle at this site in 1862, established in 1910.

Subd. 17. Chief Mouzoomaunee State Monument, in Nicollet county, in Fort Ridgely Cemetery, in recognition of the loyalty of Chief Mouzoomaunee and the Chipewewa Indians during the Sioux Uprising, established in 1914.

Subd. 18. Brook Park State Monument, in Pine county, a thirty-two foot granite shaft in Brook Park Cemetery, marks the mass grave of 23 Brook Park Township residents who perished in the Great Fire of 1894.

Subd. 19. Schwandt State Monument, in Renville county, on county road No. 15 near North Redwood, in memory of six members of the Johann Schwandt family killed during the Sioux Uprising of 1862, established in 1915.

Subd. 20. Lake Shetek State Monument, in Murray county a twenty-five foot high granite shaft in Lake Shetek State Park, in memory of those killed at this site during the Sioux Uprising of 1862, established in 1925.

Subd. 21. William Colvill State Monument, in Goodhue county, a granite shaft with a statue of William Colvill (1830-1905) honors the colonel who led the First Minnesota Regiment in the Civil War battle of Gettysburg in 1863, established in 1928.

Subd. 22. Milford State Monument, in Brown county, on county road No. 4 near Essig, in memory of over 50 Milford Township settlers killed in the Sioux Uprising of 1862, established in 1929.

Subd. 23. Moose Lake State Monument, in Carlton county, a twenty-seven foot granite shaft in Riverside Cemetery, Moose Lake, in memory of 183 victims of the Fire of 1918, established in 1929.

Subd. 24. Samuel J. Brown State Monument, in Traverse county, a bronze tablet in Sam Brown Memorial Park, Browns Valley, honors Samuel J. Brown (1845-1925), the "Paul Revere of the Northwestern Frontier" for his valiant ride in 1866, established in 1929.

Subd. 25. Count Beltrami State Monument, in Beltrami county, in honor of Count Beltrami to commemorate the discovery of the height of land on the Continental Divide on August 23, 1823, established in 1945.

Subd. 26. Chief Sleepy Eyes State Monument, in Brown county, a twenty-foot granite shaft in the city of Sleepy Eye, honoring Santee Sioux Chief Sleepy Eyes (Ish-taba), for whom the city is named, established in 1971.

Subd. 27. Sioux Indians State Monument, in Renville county, a fifty-foot granite shaft overlooking trunk highway 19 near Morton honoring the Indians who were friendly to white settlers during the Sioux Uprising of 1862, established in 1971.

[1971 c 688 s 6; 1975 c 353 s 35-38]

138.59 NOTICE TO MINNESOTA HISTORICAL SOCIETY OF LAND ACQUISITION. Whenever the state or any governmental subdivision thereof acquires any of the property enumerated in section 138.58 as a state historic site it is the duty of the officer in charge of such acquisition to notify in writing, as promptly as may be expedient, the Minnesota historical society of such acquisition.

[1965 c 779 s 9; 1967 c 54 s 7]

138.60 DUTIES OF THE STATE AND GOVERNMENTAL SUBDIVISIONS IN REGARD TO STATE HISTORIC SITES; PROHIBITIONS. Subdivision 1. Notice. The state, its departments and agencies, including the board of regents of the University of Minnesota, each city, town, county, school district, and other body corporate and politic, are by sections 138.51 to 138.63 notified of the existence of "state historic sites" on publicly owned property and on property owned by the Minnesota historical society as enumerated in section 138.53.

Subd. 2. Prohibitions. Neither the state nor any of the instrumentalities of government enumerated in subdivision 1 shall cause to change or alter the physical features or historic character of any site designated in sections 138.53 or 138.56 as a "state historic site" without first obtaining the prior approval thereof in writing of the

Minnesota historical society. The state or such instrumentalities of government may appeal to the executive council from any ruling or action of the Minnesota historical society, within 30 days after receiving notice thereof, and after a hearing on the matter the executive council may take such action as it deems necessary including a decision as to whether or not the change or alteration should be approved.

Subd. 3. [Repealed, 1975 c 353 s 41]

[1965 c 779 s 10; 1969 c 1129 art 3 s 1; 1973 c 123 art 5 s 7; 1975 c 353 s 39]

138.61 COOPERATION. The state and its governmental subdivisions shall cooperate with the Minnesota historical society in safeguarding "state historic sites" and in the preservation of historic and archeological sites.

[1965 c 779 s 11]

138.62 MINNESOTA HISTORIC SITES, CHANGES. Sites designated as "state historic sites" by sections 138.53 to 138.58 may be changed from time to time, and the Minnesota historical society is respectfully requested to notify the legislature of the needs for such changes, and to make recommendations in regard thereto so that the registries of historic sites may be kept current and complete.

[1965 c 779 s 12; 1967 c 54 s 8]

138.63 CITATION, THE MINNESOTA HISTORIC SITES ACT OF 1965. Sections 138.51 to 138.63 may be cited as "The Minnesota historic sites act of 1965."

[1965 c 779 s 13]

138.64 CONTRACTS AUTHORIZED. The director of the Minnesota historical society in consultation with the commissioner of education may contract with any or all television corporations or film producers located in the state for the production of a recorded series of programs suitable for use on both educational and commercial television stations. Such series should be suitable for use in connection with the course in Minnesota history offered in the elementary schools of the state. These recordings are to be made on 16mm film and all rights to which are to remain the property of the state of Minnesota.

[1969 c 1017 s 1]

138.65 ADMISSION FEES. The Minnesota historical society may establish and collect fees it deems reasonable for admission to the state owned historic sites under its control. These fees shall be deposited in the general fund.

[1976 c 163 s 28]

HISTORIC FEATURES OF STATE CAPITOL

138.67 DEFINITIONS. Subdivision 1. As used in this section and section 138.68 the terms defined in this section have the meanings given them.

Subd. 2. "Works of art" means paintings, portraits, mural decorations, stained glass, statues, bas-relief, ornaments, furniture, plaques and any other article or structure of a permanent character intended for decoration or commemoration.

Subd. 3. [Repealed, 1974 c 580 s 18]

[1971 c 691 s 1]

138.68 SUPERVISION OF PRESERVATION. The works of art in the public and ceremonial areas of the state capitol are declared to possess historical value for the people of Minnesota. The Minnesota state historical society and the capitol area architectural and planning board shall approve the design, structural composition, and location of all monuments, memorials or works of art presently located in the public and ceremonial areas of the state capitol or which shall be placed in such public or ceremonial areas after June 4, 1971. No monument, memorial or work of art shall be relocated or removed from, or placed in such areas or altered or repaired in any way without the approval of the Minnesota state historical society. The Minnesota state historical society shall have final authority over the disposition of any monuments, memorials or works of art removed from the state capitol or the capitol grounds.

[1971 c 691 s 2; 1974 c 580 s 17; 1975 c 271 s 6]

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PERFORMING ARTS ISSUES

INSTITUTIONS

- (1) Create a state loan fund to help institutions with cash flow problems created by delay in receiving grants.
- (2) Establish a voucher system for audience development and accessibility and for institution subsidization.
- (3) State funding through bonds, loans, and direct appropriations for cultural facility construction.
- (4) Authorize sale of surplus state property to nonprofit cultural institutions.
- (5) Establish multiyear funding of major cultural institutions (through line items).
- (6) Set aside a portion of ticket admissions to state college and university campus performances for performing arts scholarships.

ARTISTS

- (1) Eliminate withholding of state income taxes for performing artists, some of whom perform in many states each year and now have to file state income tax returns in each state to recover taxes withheld.
- (2) Establish a state insurance program to indemnify against performing artists' catastrophic injuries or illnesses.
- (3) Provide by statute that performing arts organizations receiving state (and local) government grants must pay performers at least prevailing wages with respect to funded performances.
- (4) Encourage performing artists to tour by providing gasoline vouchers and exemption from state gasoline taxes.
- (5) Regulation of performing artist - agent relations (like visual artist - dealer relations). New York and California have enacted laws on this subject.
- (6) State action to protect against piracy of live performances. For example, in England it is a criminal offense to record live performances without the permission of the performers. Another possible approach is to tax the sale of blank discs and tapes.
- (7) Revise artists' eligibility requirements for unemployment insurance benefits.

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of amusement for immoral purpose, to places resorted to for the purposes of prostitution, or to gambling houses, the character of which places the licensee could have ascertained upon reasonable inquiry.

(Amended by Stats.1972, c. 579, p. 1005, § 28; Stats.1972, c. 271, p. 547, § 5.)

§ 1698.5 Referral of minor to on-sale liquor establishment

No licensee shall send any minor to any saloon or place where intoxicating liquors are sold to be consumed on the premises.

(Amended by Stats.1972, c. 579, p. 1005, § 29.)

CHAPTER 4. * * * TALENT AGENCIES

Sec.

1700.10 Duration of license; renewal; application; bond; fee; branch office: license [New].

1700.47 Musician booking agency license; application for talent agency license [New].

Heading of Chapter 4 was amended by Stats.1978, c. 1382, p. —, § 3.

Section 41 of Stats.1978, c. 1382, p. —, provided:
"It is the intent of the Legislature that those individuals and organizations previ-

ously licensed as musician booking agencies shall henceforth be licensed as talent agencies."

§ 1700.2 "Fee" defined

As used in this chapter, "fee" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting the business of * * * a talent agency under this chapter.

(b) Any money received by any person in excess of that which has been paid out by him for transportation, transfer of baggage, or board and lodging for any applicant for employment.

(c) The difference between the amount of money received by any person who furnished employees, performers, or entertainers for circus, vaudeville, theatrical, or other entertainments, exhibitions, or performances, and the amount paid by him to such employee, performer, or entertainer.

(Amended by Stats.1978, c. 1382, p. —, § 4.)

1978 Amendment. Substituted "a talent agency" for "an artists' manager" in subd. (a).

§ 1700.3 "License" and "licensee" defined

As used in this chapter:

(a) "License" means a license issued by the Labor Commissioner to carry on the business of * * * a talent agency under this chapter.

(b) "Licensee" means * * * a talent agency which holds a valid, unrevoked, and unforfeited license under this chapter.

(Amended by Stats.1978, c. 1382, p. —, § 5.)

1978 Amendment. Substituted "a talent agency" for "an artists' manager" in subds. (a) and (b).

§ 1700.4 "Talent agency" and "artists" defined

* * * A talent agency is hereby defined to be a person or corporation who engages in the occupation of * * * procuring, offering, promising, or attempting to procure employment or engagements for an artist * * * or artists. Talent

Asterisks * * * indicate deletions by amendment

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agencies may, in addition, counsel or direct artists in the development of their professional careers.

The word "artists" as used herein refers to actors and actresses rendering services on the legitimate stage and in the production of motion pictures; radio artists; musical artists; musical organizations; directors of legitimate stage, motion picture and radio productions; musical directors; writers; cinematographers; composers; lyricists; arrangers; and other artists and persons rendering professional services in motion picture, theatrical, radio, television and other entertainment enterprises.

(Amended by Stats.1978, c. 1382, p. —, § 6.)

1978 Amendment. Rewrote the first paragraph.

§ 1700.5 Necessity of talent agency license; posting; renewal of prior licenses

No person shall engage in or carry on the occupation of * * * a talent agency without first procuring a license therefor from the Labor Commissioner. Such license shall be posted in a conspicuous place in the office of the licensee.

Licenses issued for * * * talent agencies prior to the effective date of this chapter shall not be invalidated thereby, but renewals of such licenses shall be obtained in the manner prescribed by this chapter.

(Amended by Stats.1978, c. 1382, p. —, § 7.)

1978 Amendment. Substituted "a talent agency" and "talent agencies" for, respectively, "an artists' manager" and "artists' managers".

2. In general

Licensed artists' managers, in declaratory judgment action seeking to determine whether agreement between writers' union and artists' managers, as enforced by writers' union's work rule, was invalid under federal antitrust laws (15 U.S.C.A. § 1),

failed to show reasonable probability of proving that union's activities fell outside of statutory or nonstatutory labor exceptions to federal antitrust laws (15 U.S.C.A. § 17; 29 U.S.C.A. § 52; 29 U.S.C.A. §§ 101-115); preliminary injunction against alleged concerted refusal to deal in group boycott would therefore be denied. *Adams, Ray and Rosenberg v. William Morris Agency, Inc.* (D.C.1976) 411 F.Supp. 403.

§ 1700.6 Application; contents; character affidavits

A written application for a license shall be made to the Labor Commissioner in the form prescribed by him and shall state:

- (a) The name and address of the applicant.
- (b) The street and number of the building or place where the business of the * * * talent agency is to be conducted.
- (c) The business or occupation engaged in by the applicant for at least two years immediately preceding the date of application.
- (d) If the applicant is other than a corporation, the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates or profit sharers, in the operation of the * * * talent agency in question, together with the amount of their respective interests.

If the applicant is a corporation, the corporate name, the names, residential addresses and telephone numbers of all officers of the corporation, the names of all persons exercising managing responsibility in the applicant or licensee's office, and the names and addresses of all persons having a financial interest of 10 percent or more in the business and the percentage of financial interest owned by such persons.

The application must be accompanied by affidavits of at least two reputable residents, who have known, or been associated with, the applicant for two years, of the city or county in which the business of the * * * talent agency is to be conducted that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.

(Amended by Stats.1978, c. 1382, p. —, § 8.)

Underline indicates changes or additions by amendment

1978 Amendment. S (b) and (d), "talent agency manager"; added the subd. (d) relating to c

§ 1700.7 Investigation

Upon receipt of an investigation to be n and of the premises c posed to conduct the b (Amended by Stats.19

1978 Amendment. agency" for "artists' ma

§ 1700.9 Conduct of

No license shall be

- (a) In rooms used fo
- (b) Where boarders
- (c) Where meals are
- (d) Where persons s
- (e) In connection wi or consumed.
- (f) * * * To a pe the date of application (Amended by Stats.1978

1978 Amendment. Sub production, "a talent agi sts' manager"; deleted

§ 1700.10 Duration of license

The license when fir each license shall then day and shall run fro ship, such license shall the oldest partner. If within the 30 days pre fully formed. Renewal newal bond, and the pa er may demand that a

If the applicant or li file an application in a set forth.

(Added by Stats.1978, c.

Former § 1700.10 was r 1978, c. 1382, p. —, § 11.

§ 1700.11 Application

All applications for r except bona fide employ ners, associates or profi talent agency.

(Amended by Stats.1978,

1978 Amendment. Sub agency" for "artists' mana Asterisks * * * indicate

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1978 Amendment. Substituted, in subds. (b) and (d), "talent agency" for "artists' manager"; added the second paragraph in subd. (d) relating to corporations; and re-

quired, in the last paragraph that affiliates have known applicant for two years and that the corporation has a reputation for fair dealing.

§ 1700.7 Investigation of character and responsibility of applicant

Upon receipt of an application for a license the Labor Commissioner may cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in such application as the place in which it is proposed to conduct the business of the * * * talent agency.

(Amended by Stats.1978, c. 1382, p. —, § 9.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.9 Conduct of business; places prohibited; persons not entitled to license

No license shall be granted to conduct the business of * * * a talent agency:

- (a) In rooms used for living purposes.
- (b) Where boarders or lodgers are kept.
- (c) Where meals are served.
- (d) Where persons sleep.
- (e) In connection with a building or premises where intoxicating liquors are sold or consumed.
- (f) * * * To a person whose license has been revoked within three years from the date of application.

(Amended by Stats.1978, c. 1382, p. —, § 10.)

1978 Amendment. Substituted, in the introduction, "a talent agency" for "an artists' manager"; deleted subd. (f) relating

pool halls or soft drink parlors; and relettered former subd. (g) to be subd. (f).

§ 1700.10 Duration of license; renewal; application; bond; fee; branch office license

The license when first issued shall run to the next birthday of the applicant, and each license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership, such license shall be renewed within the 30 days preceding the birthday of the oldest partner. If the applicant is a corporation, such license shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond, and the payment of the annual license fee, but the Labor Commissioner may demand that a new application or new bond be submitted.

If the applicant or licensee desires, in addition, a branch office license, he shall file an application in accordance with the provisions of this section as heretofore set forth.

(Added by Stats.1978, c. 1382, p. —, § 11.5.)

Former § 1700.10 was repealed by Stats. 1978, c. 1382, p. —, § 11.

Derivation: Former 1700.10, added by Stats.1959, c. 888, p. 2922, § 1.

§ 1700.11 Application for renewal; contents

All applications for renewal shall state the names and addresses of all persons, except bona fide employees on stated salaries, financially interested either as partners, associates or profit sharers, in the operation of the business of the * * * talent agency.

(Amended by Stats.1978, c. 1382, p. —, § 11.8.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

Asterisks * * * indicate deletions by amendment.

§ 1700.12

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§ 1700.12 Filing fee; annual fee

A filing fee of twenty-five dollars (\$25) shall be paid to the Labor Commissioner at the time the application for issuance of * * * a talent agency license is filed.

In addition to the filing fee required for application for issuance of * * * a talent agency license, every * * * talent agency shall pay to the Labor Commissioner annually at the time a license is issued or renewed:

(a) A license fee of one hundred fifty dollars * * * (\$150).

(b) Fifty dollars (\$50) for each branch office maintained by the * * * talent agency in this state.

(Amended by Stats.1978, c. 1382, p. —, § 12.)

1978 Amendment. Substituted through- lists' manager"; and increased the license out the section, "talent agency" for "art- fee from \$100 to \$150.

§ 1700.13 Application for consent to transfer or assign license; filing fee; consent to change location

A filing fee of twenty-five dollars (\$25) shall be paid to the Labor Commissioner at the time application for consent to the transfer or assignment of * * * a talent agency license is made but no license fee shall be required upon the assignment or transfer of a license.

The location of * * * a talent agency shall not be changed without the written consent of the Labor Commissioner.

(Amended by Stats.1978, c. 1382, p. —, § 13.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.15 Surety bond; deposit with labor commissioner

* * * A talent agency shall also deposit with the Labor Commissioner, prior to the issuance of renewal of a license, a surety bond in the penal sum of one thousand dollars (\$1,000).

(Amended by Stats.1978, c. 1382, p. —, § 14.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.16 Payee of bond; conditions

Such surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the license will comply with this chapter and will pay all sums due any individual or group of individuals when such person or his representative or agent has received such sums, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit, or any unlawful acts or omissions of the licensed * * * talent agency, or its agents or employees, while acting within the scope of their employment.

(Amended by Stats.1978, c. 1382, p. —, § 15.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.17 Suspension of license upon failure to file new bond after notice of cancellation by surety

If any licensee fails to file a new bond with the Labor Commissioner within 30 days after notice of cancellation by the surety of the bond required under Section 1700.15, the license issued to the principal under the bond is suspended until such time as a new surety bond is filed. A person whose license is suspended pursuant

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§ 1700.19 Conte

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§ 1700.20a Estab

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§ 1700.20b Eligibil

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to this section shall not carry on the business of * * * a talent agency during the period of such suspension.

(Amended by Stats.1978, c. 1382, p. —, § 16.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.19 Contents of license

Each license shall contain:

(a) The name of the licensee.

(b) A designation of the city, street and number of the house in which the licensee is authorized to carry on the business of * * * a talent agency.

(c) The number and date of issuance of the license.

(Amended by Stats.1978, c. 1382, p. —, § 17.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.20a Estate certificate of convenience; grounds for issuance

Text of section operative until Jan. 1, 1981.

The Labor Commissioner may issue to a person eligible therefor a certificate of convenience to conduct the business of * * * a talent agency where the person licensed to conduct such * * * talent agency business has died, or has been declared incompetent by the judgment of a court of competent jurisdiction, or has had a conservator appointed for his estate by a court of competent jurisdiction. Such a certificate of convenience may be denominated an estate certificate of convenience.

(Amended by Stats.1978, c. 1382, p. —, § 18.)

For text of section operative Jan. 1, 1981, see § 1700.20a, post.

§ 1700.20a Estate certificate of convenience; grounds for issuance

Text of section operative Jan. 1, 1981.

The Labor Commissioner may issue to a person eligible therefor a certificate of convenience to conduct the business of a talent agency where the person licensed to conduct such talent agency business has died or has * * * had a conservator * * * of the estate appointed by a court of competent jurisdiction. Such a certificate of convenience may be denominated an estate certificate of convenience. (Amended by Stats.1978, c. 1382, p. —, § 18; Stats.1979, c. 730, p. —, § 89, operative Jan. 1, 1981.)

For text of section operative until Jan. 1, 1981, see § 1700.20a, ante.

Legislative Committee Comment—Assembly

1979 Amendment

Section 1700.20a is amended to delete the reference to a declaration of incompetence. The provisions relating to guardianship of an incompetent person (Prob.Code §§ 1460-

1463) have been repealed, and under Section 1700.20a the appointment of a conservator of the estate invokes the section.

1978 Amendment. Substituted "talent agency" for "artists' manager".

1979 Amendment. Deleted application of the section to a person "declared incompetent by the judgment of a court of competent jurisdiction".

Library References

Recommendations relating to Guardianship-Conservatorship Law 14 Cal.L.Rev. Comm.Reports 501 (1978); 79 A.J. 4341.

§ 1700.20b Eligibility for estate certificate of convenience; duration; renewal

Text of section operative until Jan. 1, 1981.

To be eligible for a certificate of convenience, a person shall be either:

(a) The executor or administrator of the estate of a deceased person licensed to conduct the business of * * * a talent agency. * * *

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(c) The guardian of the estate of an incompetent person licensed as * * * a talent agency, or the conservator appointed for the conservation of the estate of a person licensed to conduct the business of * * * a talent agency.

For text of section operative Jan. 1, 1981, see § 1700.20b, post.

To be eligible for a certificate of convenience, a person shall be either:

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased licensee.

Such estate certificate of convenience shall continue in force for a period of not to exceed 90 days, and shall be renewable for such period as the Labor Commissioner may deem appropriate, pending the disposal of the talent agency license or the procurement of a new license under the provisions of this chapter.

For text of section operative until Jan. 1, 1981, see § 1700.20b, ante.

Section 1700.20b is amended to delete the reference to a guardian of an incompetent person. The provisions relating to guardi-

ananship of an incompetent person (Prob. Code §§ 1460-1463) have been repealed.

1978 Amendment. Substituted "a talent agency" for "an artists' manager" in subds. (a) and (c); and substituted, in subd. (b), "surviving spouse" for "widow".

1979 Amendment. Rewrote subd. (c) which had read: "(c) The guardian of the estate of an incompetent person licensed as a talent agency, or the conservator ap-

pointed for the conservation of the estate of a person licensed to conduct the business of a talent agency."

Recommendations relating to Guardianship-Conservatorship Law 14 Cal.L.Rev. Comm.Reports 501 (1978).

Every * * * talent agency shall submit to the Labor Commissioner a form or forms of contract to be utilized by such * * * talent agency in entering into written contracts with artists for the employment of the services of such * * * talent agency by such artists, and secure the approval of the Labor Commissioner thereof. Such approval shall not be withheld as to any proposed form of contract unless such proposed form of contract is unfair, unjust and oppressive to the artist. Each such form of contract, except under the conditions specified in Section 1700.45 * * *, shall contain an agreement by the * * * talent agency to refer any controversy between the artist and the * * * talent agency relating to the terms of the contract to the Labor Commissioner for adjustment. There shall be printed

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§ 1700.26

on the face of the contract in prominent type the following: "This * * * talent agency is licensed by the Labor Commissioner of the State of California." (Amended by Stats.1978, c. 1382, p. —, § 20.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.24 Filing and posting of talent agency fee schedule; changes in schedule

Every person engaged in the occupation of a * * * talent agency shall file with the Labor Commissioner a schedule of fees to be charged and collected in the conduct of such occupation, and shall also keep a copy of * * * such schedule posted in a conspicuous place in the office of such * * * talent agency. Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of filing thereof with the Labor Commissioner and until posted for not less than seven days in a conspicuous place in the office of such * * * talent agency.

(Amended by Stats.1978, c. 1382, p. —, § 21.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.25 Verified statement concerning applicant employer

Before making any theatrical engagement, other than an emergency engagement, every person doing business as * * * a talent agency, shall prepare, sign, and keep in his files a verified statement setting forth how long the applicant employer has been engaged in the theatrical business. Such statement shall set forth whether or not the applicant employer has failed to pay salaries or left stranded any companies, in which the applicant employer and, if a corporation, any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If the applicant is a corporation, the statement shall set forth the names of the officers and directors thereof and the length of time the corporation or any of its officers have been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in the statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. The statement shall be kept for the benefit of any person whose services are sought by any such applicant employer.

(Amended by Stats.1978, c. 1382, p. —, § 22.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.26 Records of talent agency; required entries

Every * * * talent agency shall keep records approved by the Labor Commissioner, in which shall be entered: (1) the name and address of each artist employing such * * * talent agency; (2) the amount of fee received from such artist; (3) the employment in which such artist is engaged at the time of employing such * * * talent agency, and the amount of compensation of the artist in such employment, if any, and the employments subsequently secured by such artist during the term of the contract between the artist and the * * * talent agency, and the amount of compensation received by the artists pursuant thereto; and (4) other information which the Labor Commissioner requires.

No * * * talent agency, its agent or employees, shall make any false entry in any such records.

(Amended by Stats.1978, c. 1382, p. —, § 23.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

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LABOR CODE

All books, records, and other papers kept pursuant to this chapter by any
 * * * talent agency shall be open at all reasonable hours to the inspection of the
 Labor Commissioner and his agents. Every * * * talent agency shall furnish to
 the Labor Commissioner upon request a true copy of such books, records, and papers
 or any portion thereof, and shall make such reports as the Labor Commissioner
 prescribes.
 (Amended by Stats.1978, c. 1382, p. —, § 24.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.28 Posting copies of laws in office of talent agency
Every . . . talent agency shall post in a conspicuous place in the office of such . . . talent agency a printed copy of this chapter and of such other statutes as may be specified by the Labor Commissioner. Such copies shall also contain the name and address of the officer charged with the enforcement of this chapter. The Labor Commissioner shall furnish to . . . talent agencies printed copies of any statute required to be posted under the provisions of this section. (Amended by Stats.1978, c. 1382, p. —, § 5.)

1978 Amendment. Substituted "talent agency" for "artists' management agency".

No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of the • • • • • talent agency without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisonment for not more than 60 days, or both.

(Amended by Stats.1978, c. 1382, p. —, § 26.)

\$ 1700.31 Employment in violation of law

No . . . talent agency shall knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.
(Amended by Stats.1978, c. 1382, p. —, § 27.)

1978 Amendment. Substituted "talent" for "agency" for "artists' manager".

\$ 1700.32 False, fraudulent or misleading information or advertisement
No * * *

No talent agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of a talent agency by means of cards, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the licensed name and address of the talent agency and the words " talent agency." No talent agency shall give any false information or make any false promises or representations concerning an engagement or employment to any applicant who applies for an engagement or employment.

1978 Amendment. Substituted "talent agency" for "artists' manager."

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§ 1700.33 Sending woman or minor to disorderly house as employee

No * * * talent agency shall send or cause to be sent, any woman or minor as an employee to any house of ill fame, to any house or place of amusement for immoral purpose, to places resorted to for the purposes of prostitution, * * * the character of which places the * * * talent agency could have ascertained upon reasonable inquiry.

(Amended by Stats.1972, c. 579, p. 1005, § 30; Stats.1978, c. 1382, p. —, § 29.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.34 Sending minor to saloon or on-sale liquor establishment

No * * * talent agency shall send any minor to any saloon or place where intoxicating liquors are sold to be consumed on the premises.

(Amended by Stats.1972, c. 579, p. 1005, § 31; Stats.1978, c. 1382, p. —, § 30.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.35 Permitting persons of bad character to frequent or be employed in talent agency's place of business

No * * * talent agency shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons, or procurers to frequent, or be employed in, the place of business of the * * * talent agency.

(Amended by Stats.1978, c. 1382, p. —, § 31.)

1978 Amendment. Substituted "talent agency" for "artists' manager"; and in-cluded "employment" as well as frequent-ing place of business.

§ 1700.36 Unlawful employment of minors

No * * * talent agency shall accept any application for employment made by or on behalf of any * * * minor, as defined by subdivision (c) of Section 1286, or shall place or assist in placing any such * * * minor in any employment whatever in violation of Part 4 (commencing with Section 1171) of this division.

(Amended by Stats.1978, c. 1382, p. —, § 32.)

1978 Amendment. Substituted "talent agency" for "artists' manager"; substituted "minor, as defined in subdivision (c) of Section 1286" for "child"; and added, fol-lowing "Part 4", the parenthetical refer-ence.

§ 1700.37 Judicially approved contract not disaffirmable by minor

A minor cannot disaffirm a contract, otherwise valid, entered into during minority, either during the actual minority of the minor entering into such contract or at any time thereafter, with a duly licensed * * * talent agency as defined in Section 1700.4 to secure him engagements to render artistic or creative services in motion pictures, television, the production of phonograph records, the legitimate or living stage, or otherwise in the entertainment field including, but without being limited to, services as an actor, actress, dancer, musician, comedian, singer, or other performer or entertainer, or as a writer, director, producer, production executive, choreographer, composer, conductor or designer, the blank form of which has been approved by the Labor Commissioner pursuant to Section 1700.23, where such contract has been approved by the superior court of the county where such minor resides or is employed.

Such approval may be given by the superior court on the petition of either party to the contract after such reasonable notice to the other party thereto as may be fixed by said court, with opportunity to such other party to appear and be heard. (Amended by Stats.1978, c. 1382, p. —, § 33.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

Asterisks * * * indicate deletions by amendment

§ 1700.38

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§ 1700.38 Notice of labor dispute at place of employment

No * * * talent agency shall knowingly secure employment for an artist in any place where a strike, lockout, or other labor trouble exists, without notifying the artist of such conditions.

(Amended by Stats.1978, c. 1382, p. —, § 34.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.39 Fee-splitting

No * * * talent agency shall divide fees with an employer, an agent or other employee of an employer.

(Amended by Stats.1978, c. 1382, p. —, § 35.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.40 Refund to artists failing to procure employment; penalty for noncompliance

In the event that * * * a talent agency shall collect from an artist a fee or expenses for obtaining employment for the artist, and the artist shall fail to procure such employment, or the artist shall fail to be paid for such employment, such * * * talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within * * * 48 hours after demand therefor, the * * * talent agency shall pay to the artist an additional sum equal to the amount of the fee.

(Amended by Stats.1978, c. 1382, p. —, § 36.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.41 Reimbursement for traveling expenses

In cases where an artist is sent by * * * a talent agency beyond the limits of the city in which the office of such * * * talent agency is located upon the representation of such * * * talent agency that employment of a particular type will there be available for the artist and the artist does not find such employment available, such * * * talent agency shall reimburse the artist for any actual expenses incurred in going to and returning from the place where the artist has been so sent unless the artist has been otherwise so reimbursed.

(Amended by Stats.1978, c. 1382, p. —, § 37.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.43 Service of summons

When a licensee has departed from the state with intent to defraud creditors or to avoid service of summons in an action brought under this chapter, service shall be made upon the surety as prescribed in the Code of Civil Procedure. A copy of the summons shall be mailed to the licensee at the last known post office address of his residence and also at the place where the business of the * * * talent agency was conducted as shown by the records of the Labor Commissioner. Service is complete as to such licensee, after mailing, at the expiration of the time prescribed by the Code of Civil Procedure for service of summons in the particular court in which suit is brought.

(Amended by Stats.1978, c. 1382, p. —, § 38.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.44 Hearing; stay of

Supplementary

Bond 1.5
Failure to file bond 1
Notice of appeal 1.7

1.5 Bond

Party appealing from er's determination in t under Artists' Manag to file bond in order to award although award tution, even though to bond referred to bond twice amount of "Ju6 Katz (1972) 105 Cal.Rt 8 C.3d 493.

On appeal from labor termination in arbitral Artists' Managers Act only require bond in and erred in requir prosecute appeal and dismissing appeal for id.

1.6 Failure to file bon Where party appeal missioner's determin

§ 1700.45 Arbitration

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§ 1700.44 Hearing and determination of disputes by labor commissioner; appeal; stay of award; bond; certification of no controversy and its service

Supplementary Index to Notes

Bond 1.5
Failure to file bond 1.6
Notice of appeal 1.7

1.5 Bond

Party appealing from labor commissioner's determination in arbitration proceeding under Artists' Managers Act was required to file bond in order to stay enforcement of award although award had not been reduced to judgment by judicial confirmation, even though this section specifying bond referred to bond in sum not exceeding twice amount of "judgment." *Buchwald v. Katz* (1972) 105 Cal.Rptr. 368, 503 P.2d 1376, 8 C.3d 493.

On appeal from labor commissioner's determination in arbitration proceeding under Artists' Managers Act, superior court may only require bond in order to stay award and erred in requiring bond in order to prosecute appeal and abused discretion in dismissing appeal for failure to post bond. *Id.*

1.6 Failure to file bond

Where party appealing from labor commissioner's determination in arbitration

proceeding under Artists' Managers Act did not file bond, other party was free to enforce commissioner's money award; proper procedure is first to apply to superior court for judicial confirmation and to enforce ensuing judgment. *Buchwald v. Katz* (1972) 105 Cal.Rptr. 368, 503 P.2d 1376, 8 C.3d 493.

1.7 Notice of appeal

Notice of appeal from determination of labor commissioner in arbitration proceeding under Artists' Managers Act was not required to allege ground for review. *Buchwald v. Katz* (1972) 105 Cal.Rptr. 368, 503 P.2d 1376, 8 C.3d 493.

2. Review

Superior court on appeal from labor commissioner's determination in proceeding under Artists' Managers Act may call up pleadings or other papers or documents by which parties presented their claims and defenses before commissioner or may require parties to present such claims and defenses in more formal pleadings. *Buchwald v. Katz* (1972) 105 Cal.Rptr. 368, 503 P.2d 1376, 8 C.3d 493.

This section entitles appealing party to complete new trial that is in no way a review of prior proceedings, rather than to review only by writ of mandate. *Id.*

§ 1700.45 Arbitration; contract provisions

Notwithstanding Section 1700.44 * * *, a provision in a contract providing for the decision by arbitration of any controversy under the contract or as to its existence, validity, construction, performance, nonperformance, breach, operation, continuance, or termination, shall be valid:

(a) If the provision is contained in a contract between * * * a talent agency and a person for whom such * * * talent agency under the contract undertakes to endeavor to secure employment,

(b) If the provision is inserted in the contract pursuant to any rule, regulation, or contract of a bona fide labor union regulating the relations of its members to * * * a talent agency,

(c) If the contract provides for reasonable notice to the Labor Commissioner of the time and place of all arbitration hearings, and

(d) If the contract provides that the Labor Commissioner or his authorized representative has the right to attend all arbitration hearings.

Except as otherwise provided in this section, any such arbitration shall be governed by the provisions of Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

If there is such an arbitration provision in such a contract, the contract need not provide that the * * * talent agency agrees to refer any controversy between the applicant and the * * * talent agency regarding the terms of the contract to the Labor Commissioner for adjustment, and Section 1700.44 shall not apply to controversies pertaining to the contract.

A provision in a contract providing for the decision by arbitration of any controversy arising under this chapter which does not meet the requirements of this section is not made valid by Section 1281 of the Code of Civil Procedure.

(Amended by Stats.1978, c. 1382, p. —, § 39.)

1978 Amendment. Substituted "talent agency" for "artists' manager".

§ 1700.47 Musician booking agency license; application for talent agency license

Any persons who held an unrevoked or unsuspended license as a musician booking agency 90 days prior to the effective date of the repeal of the musician book-

Asterisks * * * indicate deletions by amendment

§ 1700.47

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ing agency license law may apply for and be issued a talent agency license for the remaining term of such license without examination or fee. Any musician book- ing agency application pending 90 days prior to the effective date of such repeal shall be reprocessed as a talent agency application upon written request of the ap- plicant. Any fee on file will be applied to the talent agency application; the ap- plication shall meet all other requirements, including investigation, for a talent agen- cy license before a talent agency license may be issued.
(Added by Stats.1978, c. 1382, p. —, § 40.)

Library References
Labor Relations — 18.
C.J.S. Labor Relations § 19.

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES

CHAPTER I. PUBLIC WORKS

ARTICLE 1. SCOPE AND OPERATION

Sec.

1720.2 Public works; private contracts; conditions [New].

1720.3 Public works; hauling refuse from public works site [New].

1722.1 Contractor; subcontractor [New].

§ 1720. Public works; use of public funds

As used in this chapter "public works" means:

(a) Construction, alteration, demolition or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority.

(b) Work done for irrigation, utility, reclamation and improvement districts, and other districts of this type. "Public work" shall not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in * * * Section 1778 relating to retaining wages.

(c) Street, sewer or other improvement work done under the direction and super- vision or by the authority of any officer or public body of the state, or of any po- litical subdivision or district thereof, whether such political subdivision or district operates under a freeholder's charter or not.

(d) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(e) The laying of carpet in a public building done under contract and paid for in whole or part out of public funds.

(Amended by Stats.1972, c. 717, p. 1306, § 1; Stats.1973, c. 77, p. 129, § 19.)

1972 Amendment. Added subds. (d) and (e).

1973 Amendment. Deleted the words "in sections 1850 to 1854 of this code relating to employment of aliens and" preceding "Sec- tion 1778" in subd. (b).

Supplementary Index to Notes

Validity ¾

¾. Validity

This section, § 1720.2 and § 1771 permit- ting state to withhold contract payment to prime contractors under state highway construction contract when subcontractors

failed to pay employees prevailing wages did not deny prime contractors equal pro- tection of law by virtue of different treat- ment accorded public and private em- ployees working on public projects or be- cause of application of prevailing wage laws to public works contracts and not to public contracts in general. O. G. Sansone Co. v. Department of Transp. (App.1976) 127 Cal.Rptr. 799.

1. In general

Agreement between city and certain oil companies whereby the oil companies would produce oil from tidelands held in trust by the city, with the oil companies being obligated to sell all the oil and gas produced and to pay to the city, as com- pensation for its rights under the contract, the value of all oil and gas sold, after de-

Underline indicates changes or additions by amendment

ducting the cost of net profits, was not works" for purposes quiring payment of to workers in connet International Broth AFL-CIO v. Board City of Long Beach 68 C.A.3d 556.

§ 1720.2 Public wo

For the limited chapter, "public wo tract when all of t

(a) The construct

(b) The property upon completion of square feet of the p

(c) The lease agr as lessee, was enter (Added by Stats.197

Library references Words and Phrases

1. Validity Section 1720, this s mitting state to with to prime contractors construction contract failed to pay employ did not deny prime

§ 1720.3 Public wo

For the limited j works" also means disposal location, w the California State (Added by Stats.1976

§ 1722.1 Contractor

For the purposes shall include a cont thereof, acting in su 1 (commencing with Chapter 1 of Part 7 (Added by Stats.1978

§ 1727. Withholding

Supplementary Validity ¾

¾. Validity This section and § 17 of California was pe payments to prime con highway contract bec tors' failure to pay the ing wage rates did not

§ 1735. Discriminati

No discrimination s because of the race, re cal handicap, medica

Asterisks * * * indic

EMILY ANNE STAPLES

Senator, 43rd District
235 Minnesota Capitol
St. Paul, Minnesota 55155
(612) 296-4137
1640 Xanthus Lane
Plymouth, Minnesota 55391
(612) 473-9120

Senate

State of Minnesota

June 4, 1980

Senator Alan Sieroty
California State Legislature
State Capitol
Sacramento, California 95814

Dear Alan:

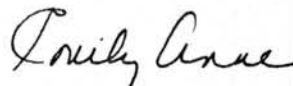
Thank you for your letter of May 28th. I think the wording of the proposal on schools for the arts is very good and will be comprehensive enough to cover all those instances where there may be needs for varying responses. I have been particularly impressed with the North Carolina School for the Performing Arts since I've had two or three friends who have students there.

Tell Larry I'm at work on the historic preservation part of the publication and should have it completed within a week or so. That I haven't had it there yet, it's pure procrastination.

I sent my ticket order for "Children of a Lessor God" to Deborah a couple of days ago. I'm really looking forward to seeing it.

I've been listening to some of the performances of the Spoleto Festival in Charleston over national public radio and can certainly visualize those in the Dock Street Theatre. I'm only sorry we're not there right now, but we certainly had a fine preview. See you in New York.

Best regards,



EMILY ANNE STAPLES
State Senator

EAS:jb

EMILY ANNE STAPLES

Senator, 43rd District
235 Minnesota Capitol
St. Paul, Minnesota 55155
(612) 296-4137
1640 Xanthus Lane
Plymouth, Minnesota 55391
(612) 473-9120

Senate
State of Minnesota

July 15, 1980

Deborah Bennington
National Council of State Legislatures
1125 17th Street - 15th Floor
Denver, Colorado 80202

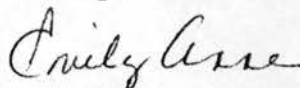
Dear Deborah:

Good meetings! I was sorry not to be there for the publications subcommittee meeting, but am working on my contribution right now.

I'm sorry there wasn't more time for a visit. I always enjoy that part most.

Hope all goes well with your new house. Do stay in touch.

Fondly,



EMILY ANNE STAPLES
State Senator

EAS:jb

EMILY ANNE STAPLES

Senator, 43rd District
235 Minnesota Capitol
St. Paul, Minnesota 55155
(612) 296-4137
1640 Xanthus Lane
Plymouth, Minnesota 55391
(612) 473-9120

Senate

State of Minnesota

July 17, 1980

Mr. Richard Merritt
National Council of State Legislators
444 North Capitol St., N. W.
Suite 203
Washington, D.C. 20001

Dear Dick:

I was really sorry not to be at the Human Services meetings in New York. My loyalties were torn between health and welfare and the arts. As you noticed, arts won. That, however, does not mean that I am any less committed to the human service area--only that I have not yet been cloned.

Do keep me informed on what is going on and if there are ways in which I can be helpful. A political year is a good one in which to build awareness--I hope.

It was good to see you, if only for a glimpse.

Best regards,

Emily Anne Staples

EMILY ANNE STAPLES
State Senator

EAS:jb

EMILY ANNE STAPLES

Senator, 43rd District
235 Minnesota Capitol
St. Paul, Minnesota 55155
(612) 296-4137
1640 Xanthus Lane
Plymouth, Minnesota 55391
(612) 473-9120

Senate
State of Minnesota

July 17, 1980

The Honorable Richard S. Hodes
House Speaker Pro Tempore
State Capitol
Tallahassee, Florida 32301

Dear Dick:

Congratulations on your election as President of NCSL. You have a challenging year ahead of you but I know you'll carry it off with dash.

Since you have maintained your interest in the human services area I'm sure that will receive some attention, but I am also delighted by your commitment to the Arts Task Force and your support of making it a standing committee. I feel that with Alan Sieroty's leadership it has become a very useful and productive arm of NCSL. It provides the kind of interchange for which I feel NCSL was founded.

Good luck on your term in office. Please greet your wife for me. I'll be interested in hearing a progress report on the arts center.

Best regards,

Emily Anne Staples

EMILY ANNE STAPLES
State Senator

EAS:jb

STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
(916) 445-7928

DISTRICT OFFICE
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(213) 479-4244

LARRY BRISKIN
ADMINISTRATIVE ASSISTANT

MICHAEL SIEGEL
LEGISLATIVE ASSISTANT

Senate
California Legislature

ALAN SIEROTY
TWENTY-SECOND SENATORIAL DISTRICT

April 16, 1980

COMMITTEES
INDUSTRIAL RELATIONS
JUDICIARY
PUBLIC EMPLOYMENT AND RETIREMENT
REVENUE AND TAXATION

SELECT COMMITTEES
CHAIRMAN, SELECT COMMITTEE ON
GENETIC DISEASES
HOUSING AND URBAN AFFAIRS
LAND USE MANAGEMENT ORGANIZATIONS
PUBLIC TRANSPORTATION PROBLEMS IN
LOS ANGELES

CHAIRMAN
ARTS TASK FORCE, NATIONAL
CONFERENCE OF STATE LEGISLATURES

MEMBER
CALIFORNIA COMMISSION ON THE
STATUS OF WOMEN
CONSUMER ADVISORY COUNCIL

Representative Richard S. Hodes
House Speaker Pro Tempore
State Capitol
Tallahassee, Florida

Dear Representative Hodes:

Thank you for your letter and for the opportunity to comment on the future of the Arts Task Force as part of NCSL's organizational structure.

Members of the Arts Task Force discussed this issue at several meetings. The members voted overwhelmingly to recommend to the NCSL Executive Committee that there be a continuing responsibility on the part of NCSL in the area of arts and cultural affairs.

The Task Force then appointed a committee to make a recommendation regarding how this should be carried out. After consideration of available alternatives, the committee recommended that the most effective structure would be continuation as a Task Force with continued representation from each state. I am confident that this recommendation will be ratified at the next Arts Task Force meeting, May 8-11 in Charleston, South Carolina.

The Arts Task Force members believe strongly that the Task Force should be continued. The members are enthusiastic about this new area of state action. We have averaged 25 to 30 legislators per meeting. The meetings have provided for the exchange of information and have stimulated direct activity in the individual states. As a result of our meetings, state arts legislation was enacted in at least a dozen states last year, and funding of state arts agencies was substantially increased in several others.

The arts are playing an increasingly important role in our society as we move towards a more service-oriented economy. We are finding that the arts have a stimulating impact on the economy and that momentum has begun toward integrating the arts into economic development and city revitalization programs.

The Task Force's publication, which will present a blueprint for state support for the arts in the 1980's, will be published this Fall. Continuation of the Arts Task Force will provide a means of implementing the Task Force's recommendations.

I appreciate hearing from you regarding this matter and am available to provide further information. I am also sending copies of this letter to Robert Goss and William Pound.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Alan Sieroty", with a stylized, flowing script.

ALAN SIEROTY

AS/LB/po

cc: Robert Goss
William Pound
Members of Arts Task Force



**National
Conference
of State
Legislatures**

Headquarters
Office
(303) 623-6600

1405
Curtis
Street
23rd Floor
Denver,
Colorado
80202

President
George B. Roberts, Jr.
Speaker, New Hampshire
House of Representatives
Executive Director
Earl S. Mackey

March 25, 1980

The Honorable Alan Sieroty
State Senator
State Capitol
Sacramento, CA 95814

Dear Senator Sieroty:

NCSL President George B. Roberts, Jr., recently appointed a Committee on Committees to review the existing committee structure of the Conference and has asked me to serve as chairman. This Committee on Committees will meet in Washington, D.C., on April 25. I would appreciate receiving any recommendations or comments that you might wish to make about your task force or the general committee structure of the National Conference of State Legislatures. This special committee will review the existing committee structure, including the current structure of the State-Federal Assembly and the Assembly on the Legislature committees, the existence of committees and task forces outside the structure of the SFA and AOL, and the desired frequency of meetings of committees.

Please send any comments you might have to me or to Robert Goss, Director of State-Federal Relations in Washington, or to William Pound, Director of State Services in Denver, by April 10, 1980.

Sincerely,

Dick Hodes

Representative Richard S. Hodes
NCSL President-elect
House Speaker Pro Tempore, Florida

RSH:DC



**National
Conference
of State
Legislatures**

Headquarters
Office
(303) 623-6600

1405
Curtis
Street
23rd Floor
Denver,
Colorado
80202

President
George B. Roberts, Jr.
Speaker, New Hampshire
House of Representatives
Executive Director
Earl S. Mackey

MEMORANDUM

TO: Arts Task Force

FROM: Deborah E.S. Bennington

SUBJECT: Next Meeting in New York, Report on Charleston, Fall Meeting
and Fund Raising and Publications

DATE: June 4, 1980

1. Next Meeting in New York: The Arts Task Force will be meeting during the NCSL Annual Meeting in New York City. The schedule will be as follows:

Monday, July 7

9:30 to 11:30 a.m.

Publications Subcommittee - Everyone welcome (check Annual Meeting Program for meeting room at the Waldorf-Astoria)

1:00 to 5:30 p.m.

Full Task Force Meeting (check Annual Meeting Program for meeting room at Waldorf-Astoria)

Tuesday, July 8

9:00 a.m. to
5:30 p.m.

Full Task Force Meeting (This meeting may take place outside of the Hotel. We will make an announcement during Monday's meeting or contact the NCSL staff office at the Waldorf for the location.)

Topics to be considered: performing arts, capital construction funding for cultural facilities, in-depth discussion of state arts agencies, and additional recommendations for state arts legislation.

If you have not yet made your hotel reservations for the Annual Meeting, it is imperative that you DO SO IMMEDIATELY. The Waldorf-

Astoria is already filled and the others are filling quickly. Since we will lose our block of rooms at all hotels June 13, it would be best for you to call me or my assistant, Joan Smith, with your hotel needs.

In addition to the meeting, you should have already received a letter from Task Force Chairman, Alan Sieroty, about the block of seats for the Broadway play "Children of a Lesser God." These are excellent seats available to Task Force members for Wednesday night, July 9, at the reduced price of \$18 each. Please return those order forms to me with your check as soon as possible.

Finally, we are trying to arrange for a special viewing of the Picasso show at the Museum of Modern Art. We will let you know if that materializes.

2. Report on Charleston

The Charleston meeting went very well and was attended by over 70 legislators and guests. Three additional recommendations for state legislation were adopted to encourage states to:

1. Create a State Department of Cultural Affairs to administer state cultural programs.
2. Establish a State Art Bank under which the state, through expert panels, purchases artworks by the state's artists to rent or loan on a rotating basis to public and private non-profit facilities for public display. The program can be partially or totally self-supporting as a result of income generated from rental fees.
3. Make available state funds to school districts to provide in-service arts education training for elementary school teachers. Training programs would emphasize both arts appreciation and integration of the arts into the educational curriculum. The proposal is modeled after the successful Lincoln Center arts education program in New York.

Discussions began on two additional recommendations, which will be considered again:

1. Some provision for protection and authenticity of native American arts and crafts; and,
2. schools for the arts.

Task Force discussions were held on historic preservation, intergovernmental cooperation in the arts, festivals, education television and a brief introduction to the National Endowment for the Humanities and state humanities councils.

Two subcommittees were formed as a result of the meeting:

1. Performing Arts -- Formed because of a feeling that the Task Force should increase its attention to the needs of the performing arts. The Subcommittee will be drawing up proposals for legislative recommendations and will help

to structure the performing arts discussion in New York,
Members: Representative Pat Sweeney (Ohio), Representative Sally Smith (Alaska), Senator Richard Bullock (Oregon), Representative Carl Otte (Wisconsin), and Mary Brabston (Alabama, representing Lt. Gov. George McMillan)

2. "Committee on Menotti" (It was the affectionate unofficial title.) Interest was generated by the inspiring comments during the Festival discussion of Gian Carlo Menotti, the composer who is founder and Artistic Director of both the Spoleto Festival in Italy and Spoleto USA in Charleston. the focus is on developing support and audience opportunities for young artists, and developing a more comprehensive program of arts in education in this country. One suggestion was made that state legislators hold national hearings on the arts. I believe the members intend to seek future guidance and inspiration from Menotti as they focus their direction.

Members: Assemblyman Bill Passannante (New York), Senator Emily Anne Staples (Minnesota), Representative Jack Buechner (Missouri), and Representative Harriett Keyserling (South Carolina)

Please contact me if anyone wishes to become a member of either subcommittee.

The Intergovernmental Support for the Arts panel in Charleston generated a good deal of interest among Task Force members. As a result, we will be pursuing a course of beginning to work and cooperate with the other public interest groups which have arts task forces or committees -- the National Governors' Association, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, and the International City Management Association.

It was also announced in Charleston that the incoming President (in July) of the NCSL, Representative Richard Hodes of Florida, has stated that he will be recommending to the NCSL Executive Committee that the Arts Task Force become a permanent standing committee of NCSL. We do not know the timing of this change, but it will represent a major step for the future of the Arts Task Force.

invite

Finally, the Task Force adopted a motion that we formally/all people who served as resources on panels at previous meetings to join the group at all future meetings. Hence, from now on we will be sending an invitation to our meetings to them.

3. Fall Meeting: Senator Carl Moore's invitation to hold the fall meeting in Nashville, Tennessee was accepted. The dates are Thursday - Sunday, November 20-23,

4. Fund Raising and Publications: For those of you who were at the meeting, I am enclosing a copy of our status sheet on fund raising for the legislator's guide to supporting the arts. The total raised so far is \$26,800. Our goal is \$35,000, so we still need help raising money.

For any of you who can make an initial contact with a potential source, I can follow your contact with a detailed funds-request letter and an outline of the publication.

The Publications Subcommittee met in Charleston and reviewed an outline for the publication and a cost estimate bid. We project just the developing, designing and printing costs to run around \$30,000 for 15,000 copies of a projected 64-page publication. This does not include any overruns or distribution costs.

At the Subcommittee meeting in New York there will be further review of design and printing bids and drafts of one or two chapters of the book.

We have also entered into an agreement with Western States Arts Foundation (WSAF) and the National Assembly of State Arts Agencies (NASAA) on some future publications. WSAF has begun a project to produce a series of publications which will serve as follow-ons to our legislator's guide. Each will focus on particular arts legislation and will include surveys of existing legislation and suggestions for model legislation. For each publication, a member of the Arts Task Force will serve on an editorial board for developing the publication, and as a liaison from the Task Force to WSAF and NASAA.

In Charleston, Senator Richard Bullock of Oregon was designated as the liaison for the first publication which will be on "Percent for Arts" legislation.

***** NOTE *****

Please change your records to reflect the fact that the National Conference of State Legislatures has moved. The old address was 1405 Curtis Street. The NEW address is as follows:

NCSL
1125 17th Street, 15th Floor
Denver, Colorado 80202

same phone no. -- 303-623-6600

STATE CAPITOL
SACRAMENTO, CALIFORNIA 95814
(916) 445-7928

LARRY BRISKIN
ADMINISTRATIVE ASSISTANT

MICHAEL SIEGEL
LEGISLATIVE ASSISTANT

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LOS ANGELES, CALIFORNIA 90064
(213) 479-4244

EVAN J. KAIZER
ADMINISTRATIVE ASSISTANT

Senate California Legislature

ALAN SIEROTY
TWENTY-SECOND SENATORIAL DISTRICT

June 20, 1980

COMMITTEES

INDUSTRIAL RELATIONS
JUDICIARY
PUBLIC EMPLOYMENT AND RETIREMENT
(VICE CHAIRMAN)
REVENUE AND TAXATION

SELECT COMMITTEES

CHAIRMAN, SELECT COMMITTEE ON
GENETIC DISEASES
HOUSING AND URBAN AFFAIRS
LAND USE MANAGEMENT ORGANIZATIONS
PUBLIC TRANSPORTATION PROBLEMS IN
LOS ANGELES

CHAIRMAN

ARTS TASK FORCE, NATIONAL
CONFERENCE OF STATE LEGISLATURES

MEMBER

CALIFORNIA COMMISSION ON THE
STATUS OF WOMEN
CONSUMER ADVISORY COUNCIL

Dear Arts Task Force Members:

I thought you might like to see the enclosed news articles regarding:

- (1) Carmen Kasperbauer's legislation to create a Guam Institute of Culture.
- (2) Jack Lapides' successful legislation to provide artists a fair market value state income tax deduction for donation of their art to Maryland museums.
- (3) The North Carolina School of the Arts and its efforts to revitalize an area of Winston-Salem where the school is located.
- (4) The mutilation of an important Noguchi sculpture by a New York bank.
- (5) A San Francisco organization providing accessibility to the arts.
- (6) Film censorship by Canadian provinces.

Best regards.

Yours sincerely,



ALAN SIEROTY

AS/LB/po

Enclosures

Solon says:

Remove politics from art

**By MARK SHAPIRO
Guam Tribune Staff**

Sen. Carmen Kasperbauer has her own ideas of "taking politics out of art."

Bill No. 429, as substituted by the Committee on Municipal and Cultural Affairs, sets out to codify existing art laws (established by executive orders) and creates the Guam Institute of Culture.

Set up within the executive branch, the purpose of the institute is to "serve as clearinghouse for all official local cultural resources ... by pro-

moting interaction among the territory's cultural agencies ... and to eliminate waste and duplication among the various agencies."

To assure competent direction by a qualified board of directors, the following 14 members would be appointed by the governor: the director of the Micronesian Area Research Center; the director of the Guam Visitor's Bureau; the director of the Guam Economic Development Agency; the curator of the Guam Museum; the territorial archaeologist; a representative from the Insular Arts Council; a representative of the Guam Public Library; a representative of the Bilingual-Bicultural Education Program of the University of Guam; a representative of the Bilingual-Bicultural Program and the Chamorro Language and Culture Program of the Department of Education; a representative of the Guam Telecommunications Corporation Board and four members of the community, "representative of the performing arts, visual arts, humanities and cultural public interest."

Serving a two year term, the board would in turn select a chairman from among its members (to serve one year) and appoint its director.

Centralizing authority, the Guam Museum would be established within the institute; its curator to be made a classified position.

Additionally, parks and recreation would lose some of its power to an Historic Preservation Board, responsible for "nominating properties to the National Register of Historic Places and other functions deemed necessary for historic preservation."

Appointed by the director of the institute (subject to federal regulations), five members and five alternates would run

the historic preservation program "each having professional qualifications in the respective disciplines of architecture, archaeology, community planning, history and Chamorro culture. The program director would be appointed with the consent of the governor by the director of the institute.

An archaeology laboratory would also be created; the position of territorial archaeologist becoming a classified one.

To meet federal requirements and assure the continued flow of grant money, bill 429 formally establishes the Insular Arts Council.

Comprised of nine as opposed to the current 12 members, the council would be appointed by the governor with the advice and consent of the Legislature.

Another difference between the new council and the current, is the chairman and vice-chairman would be annually elected by the members; each member to serve a two year term.

429 also creates an Art Bank and Gallery, as well as codifying and setting up various art related regulations.

"I believe my bill to be a comprehensive one," stated Kasperbauer. "We've got to get away from politics in the Arts."

Ironically, Kasperbauer's bill may be in for some "fancy politicking" itself."

According to aids, two other senators are working on similar legislation and may "split the support if it comes to a vote."

SERIES CONTINUES TOMORROW



JULIAN LAPIDÈS
Wins come hard

Painted a villain, for art's sake

By Michael J. Himowitz

The wins don't come easy for Julian Lapidès.

The maverick Bolton Hill senator plays the gadfly so often that even when he's on the side of the angels—or in this case, the artists—his colleagues give him a tough time.

A vote last week was a good example.

The senators hooted, hissed and hollered, switched the votes faster than the eye could see and even did some bad Lapidès imitations, but they finally approved his bill that would allow artists to deduct from their state income tax the full appraised value of works they donate to public institutions.

"It's a magnificent way for the state to accumulate a collection that would cost the state very little," Mr. Lapidès said in support of his pet bill.

Under current law, a collector who owns a piece of art can donate to a public institution and take as a tax deduction its full appraised value.

"But an artist doesn't get the same break as everyone else. He can only deduct what it costs him to produce it, maybe \$5 for a canvass and \$3 for paint. So he only gets an \$8 deduction," Mr. Lapidès said.

But the senator's colleagues weren't going to let him off so easily. They quickly pounced on his own penchant for fighting special interest legislation.

"This is the most venal bill I've seen down here this session," hissed Sen. John A. Cade, R-Anne Arundel 33rd, using one of Mr. Lapidès' favorite phrases.

"I want to know the names of individuals, and in particular your neighbors, who would benefit from this," chimed in Senate Majority Leader Rosalie S. Abrams, D-City 42nd.

Offended, Mr. Lapidès denied any special interest and said he doesn't paint.

In fact, he said the state has a lot to gain from the bill. He said France gained a national treasure when it allowed the family of the late Pablo Picasso to pay off his estate taxes with paintings.

That didn't impress Sen. James C. Simpson, D-S. Md. 29th.

"I've seen Picassos selling for great amounts of money, and I can tell you that I've seen kids in second grade who do just as good work," he said.

Mr. Lapidès shuddered.

**4 . . . I want to know the
names of individuals . . . 7**

—Sen. Rosalie Abrams

Others with more serious objections thought the bill could be abused, but Mr. Lapidès said it would only apply to persons who get 50 percent of their income from art—eliminating tax dodges by Sunday painters.

When the vote was called, dozens of red lights signifying nay votes flashed up on the Senate scoreboard. But ex-cruciatingly, one by one, they started turning green.

In fact, the senators toyed with Mr. Lapidès so long that the vote counting machine went haywire, and they had to do it all over again. But the outcome was 28 to 14 in the bill's favor.

Mr. Lapidès smiled. "It's always tough down here," he said.

Greasepaint Transforms a Landscape

Performing Arts School Brings New Vitality, Money to North Carolina City

By NEAL R. PEIRCE

WINSTON-SALEM, N.C.—How do you provide your state's young people with glittering job opportunities around the world? Open doors to your state economic development agents in Europe? Bring culture to rural high schools and communities? And revitalize a small city's bedraggled downtown?

One answer can be found at the North Carolina School of the Arts, an oasis of high quality performing arts in an unpretentious state once known as "a vale of humility between two mountains of conceit" (its haughty neighbors, Virginia and South Carolina).

Each of the 600 students at the school here has qualified by professional audition for training that runs from seventh grade through college. To stay in the school, he or she must show continued development toward a professional career as an actor or ballet dancer, opera singer, theater technician, symphony or jazz orchestra musician. You can feel the evidence of striving, the search for artistic perfection in each classroom. No other state has an institution quite like it.

The school is a legacy of the administration of one of America's most progressive governors—Terry Sanford. Rural legislators called it a "toe-dancing school," but Sanford in 1963 was able to ram it through by horse-trading road projects and juicy appointments. It has been 15 years since Sanford (now president of Duke University) left the governorship. But the legislature, increasingly convinced of the

art school's worth, now pays \$4 million of its annual \$5 million budget.

The payoffs begin with the jobs that the talented young graduates—about half are residents of the state—are able to land with performing arts institutions. They dance with the American Ballet Theatre and other leading companies in America and Europe. They sing for practically every famous opera company from the Metropolitan on down. They play in all the major orchestras in the country. They act on Broadway, in films and in major repertory theaters. The school's technical graduates—stage managers, costume designers, set and lighting experts—are so in demand that the school claims none are unemployed. Overall, in one of the world's most uncertain employment areas, three-quarters of the school's graduates are working in their field.

One reason the legislature continues to cough up money for the school is its record of "Cinderella" stories. Mel Tomlinson, a Raleigh high-school drum major described as having "a plastic body and hyperextended muscular character," was spotted by a faculty member in a parade. Graduated from the school, he is now a soloist with the Dance Theater of Harlem, the nation's premier classical black dance company.

The school's popularity with North Carolinians is undergirded by extensive state tours bringing dance, drama and music to rural areas and high schools.

North Carolina is also finding the state's cultural reputation—from annual European tours of the school's orchestra, for instance—helps draw foreign investment and helps attract high-level executives to the state.

In Winston-Salem itself, the school is playing a crucial role in development of a "culture block" that local leaders believe will bring people and private investment to the long-blighted downtown. The school is renovating the Carolina Theater, an abandoned 1920s movie palace, into a performing arts center for productions by students of the school and visiting companies. A few hundred feet away,

a former Cadillac showroom will become an arts and crafts school with classrooms visible from street level. An adjacent lot will be landscaped into a park and concert plaza.

The idea: to generate a critical mass of downtown activity by attracting suburbanites, tourists, conventioners and the city's own people to a place of vital activity. Local civic and arts leader R. Philip Hanes Jr. recalls the failure of 25 years' prior redevelopment efforts. The city hired development consultants, demolished old buildings, buried utility lines, refaced stores, encouraged a bank to build a 32-story office tower and constructed a pedestrian mall. But nothing worked. Today the pedestrian mall is so inactive that even a pawnshop on its key corner has closed down.

"So," Hanes says, "we set out to show that the arts, instead of being peripheral to life, are the only possible way you can save the city's center." That strategy, centered on the culture block and the School of the Arts sponsorship of the theater project, has already stimulated immense activity. Arista Mills' old textile mill is being turned into a restaurant and boutique complex modeled on San Francisco's Ghirardelli Square. Private investment in downtown will total \$100 million to \$200 million by 1985, Hanes predicts.

Can the arts be as central to city revival in other cities as they now appear here? Possibly not. Few other cities have as long an arts tradition as Winston-Salem, which boasts the country's first city arts council (1949) and the highest per-capita donation to the arts in the nation.

But arts investments—in new center-city museums, restored theaters and cultural centers—are helping downtown revivals across the country.

North Carolina's commitment to the arts suggests the dividends apparently aren't just in capturing the arts' enlivening spirit; they extend to hard economic development as well. □

Neal R. Peirce writes about urban affairs for the National Journal.

'LIKE A GUILLOTINE'

Complaints Prompt Bank to Dismantle Sculpture

From Times Wire Services

NEW YORK—Some customers at a Bank of Tokyo office here said they felt uncomfortable with Isamu Noguchi's 1,600-pound sculpture hanging overhead "like a guillotine."

So the bank cut the sculpture down, chopped it up and stuck it in a warehouse.

"It's vandalism, and very reactionary," the 75-year-old artist, one of the world's foremost sculptors, said. "I should think they'd ask the artist before they did something like that. I guess somebody there didn't like it. I don't know what to say."

But according to Fred Hertel, executive vice president of the bank in New York City, the sculpture "was beautiful, but a number of people thought it was threatening or unsafe."

"To get it out we had to cut it up, and I'm not sure whether we can ever put it together again, although we tried to make the pieces as big as possible," Hertel said. "We had originally planned to winch it out of a plate-glass window, but it was bigger than one pane."

The sculpture, entitled "Shinto," was made of aluminum and cost \$60,000. The 17-foot-long rhomboid hung point downward from the lobby ceiling, suspended by steel cables. Hertel said the bank wanted to use some of that lobby area for more working space, and thus decided to take down the sculpture.

The sculpture had some fans, including Ada Louise Huxtable, the New York Times architectural critic, who wrote that the work provides "a deliberate contrast of style, a studied and stunning transition from 19th to 20th century."

"We love Noguchi," Hertel said. "We've had many negative comments in the last few years about the sculpture: that it was too sharp, that it looked like a guillotine, that we collected our loans by making customers sit under it."

A bank spokesman said Noguchi was not told of the decision because the sculpture is the property of the bank. Noguchi agreed that he had no recourse.

Bay Area Rings Up Curtains for Needy

Nearly 300,000 Senior Citizens and Underprivileged Students See Plays

By JOHN M. LEIGHTY

SAN FRANCISCO (UPI)—More than 1,400 senior citizens were recently escorted in a group from their low-rent apartments in a high-crime area to a bright musical evening at the San Francisco ballet.

Last Christmas season, about 1,000 underprivileged youngsters saw a full-scale production of "The Nutcracker" ballet across the bay in Oakland.

Similar cultural events—free of charge—have been made available to nearly 300,000 people who could not afford or had never been exposed to the area's rich performing arts programs.

"It's been a very positive experience for all," said Charles Burns, founder of Chicago's successful Urban Gateways, who moved to San Francisco in 1970 and set up a virtual one-man show called the American Institute for Cultural Development.

"I've always approached this work with the concept of improving the quality of life for the low-income person," said Burns, who gets the money for theater tickets and educational classes from grants and individual donations.

A native of Grand Ridge, Fla., Burns said he has recently given high priority to getting senior citizens out of their homes and into the theaters by setting up an escort service.

"These people will not come out of their neighborhoods unless they are escorted," Burns said, adding that many of the elderly were once regular theatergoers who can no longer afford to attend because of their fixed incomes.

"By providing an escort service, we know that the tickets we supply free will be used," Burns said. "Also, it's an appreciative audience."

Burns also reaches elementary, junior-high and high-school students through a class he gives for teachers interested in the performing arts and by getting students to the shows.

"We focus in on children or young adults with an interest in the performing arts, maybe as a career. We

give them professional exposure and inspire them."

Because the San Francisco School Board this year is cutting music programs from its budget, Burns sees his touring artists program of 90-minute appearances as helping to fill the gap. Under the program, children talk to performing artists about their work.

A continuing artists-in-residence program allows a musician, dancer or singer to spend six months at a particular school and to build a one-to-one rapport with gifted students.

"When artists are brought to schools, it gives the child firsthand knowledge of how an artist functions, not only as a creative person but in regard to the artist's philosophy of life and so forth," Burns said.

Theater Flamenco dancer Adele Clara, for example, had a residency in the John Muir and John Swett elementary schools in San Francisco and gave instruction not only in dance but in all phases of Hispanic culture.

Burns particularly likes to offer

The program gives elementary school children 'a sense of music, mime and dance.'

elementary schools the chance to attend free events. High-schoolers usually are charged a \$1 token fee.

For grade schools, the institution generally selects a ballet with a story—such as Cinderella—that youngsters can appreciate. "The visual aspects are effective and give them a sense of music, mime and dance."

"We have favored dance over the years, especially multiethnic dance groups," Burns said.

Money is always a factor in keeping the programs running smoothly, and Burns often works years ahead on his proposals. Most of his grants are given on a matching basis, which means he has to raise money from individual donations to keep on top of things.

"It's worth the effort," Burns said.

Canada Censors All The Dirty Parts

By Andrew H. Malcolm
New York Times

TORONTO — A government board's decision to censor parts of the Academy Award-winning film "The Tin Drum" (playing at the Tower Theater in Sacramento) has ignited another in a running series of emotional controversies here over what control, if any, governments should have over film entertainment.

Under Canadian law, each of the 10 provinces has the power to screen all motion pictures before they are shown publicly. Each may prohibit any film outright or demand certain cuts be made before approval is granted. By general consensus, the Ontario Board of Censorship, a panel of seven men and women, is by far the most conservative in Canada, regularly demanding cuts or forbidding films that receive wide public acclaim and no censorship elsewhere, even in neighboring provinces.

In previous decisions, the Ontario board, which oversees 40 percent of the national movie market, has banned "Pretty Baby," the story of a teen-age prostitute in a New Orleans brothel; "Luna," and "In Praise of Older Women," a film that ironically received much of its early financing from another Canadian government agency.

The latest controversy centers on "The Tin Drum," which won this year's Oscar for foreign film. Based on a novel by Gunter Grass, it is the story of a child in prewar Europe who at the age of 3 views the crassness and hypocrisy of the surrounding adult world and decides to stop growing. Some of the events he views over the years and participates in involve sex acts, some implied and some almost totally explicit.

The Ontario board, which was estab-



Scene from 'The Tin Drum' not X-Rated

lished under the Theaters Act of 1911, does not make public its decisions or reasons. Distributors have been prohibited from discussing what cuts have been ordered. And most moviegoers in Ontario are never aware that a film has been altered.

But in an unusual move recently, Frank Drea, Ontario's outspoken minister for consumer relations, who had not seen the film, publicly outlined the ordered cuts and said the fact that those segments were not censored in Quebec and British Columbia was irrelevant. "We have standards in this province," Drea said, "and these standards are overwhelmingly supported by the people of this province." Drea, a politician who does not shun controversies, has also led provincial efforts to ban topless dancers and waitresses.

"We are not going to tolerate this yo-yo telling us what we can see," Stephen Chesley, a spokesman for the movie's distributor, New World Mutual Pictures of Canada, said. "The board counts on this all blowing over, but we won't let it lie this time."

THE STRUGGLE over the film erupted late in April when the two-and-a-half-hour movie was submitted for approval. According to informed board

censorship in films exactly the way it being provided," Drea said.

Opponents of the board, a civil-service agency, denounce government interference in the arts and demand the board's abolition and immediate clearance of "The Tin Drum." One newspaper cartoon depicted Drea outside a Lassie film saying, "The way she wagged her tail was utterly obscene."

"Nobody can be God and be right 100 percent of the time," Sims said in a rare interview, "but if you read all the bumph about the board and 'artistic integrity,' you'd think we're wrong 100 percent of the time. We look at movies, about 1,500 a year, all the time, and we have a better viewpoint, representing the majority opinion of the people of Ontario, than all these people up on their soapboxes."

He said controversies surround one or two board decisions a year, and he wondered why the movie makers resisted cuts here but agreed to them in Britain.

"This is the latest and largest controversy in a whole series," Robin Wood, a York University film professor said. "Each one creates more uproar, and this one is still building."

Chesley sees a polarization between Ontario's increasingly sophisticated and liberal cities, mainly Toronto, and the rural areas, which have helped elect Conservative Ontario governments for 37 years.

"The new generation," he said, "is more defiant and believes that it knows better than some appointed board what it can see in movies."

The board is not the only problem. Under Canadian law, even a censored film can be charged with obscenity by viewer under the criminal code.

The lawyers for the film are trying to negotiate a resolution. But Sims stood adamant:

"The people are fed up with all our decision stands."

sources, two of the censors viewed "The Tin Drum" and were disturbed especially by implied sex scenes involving the film's child protagonist, Oskar. They arranged a showing for the full board, including Donald Sims, its chairman, a 65-year-old former broadcaster who will retire soon.

The orders to censor at least three scenes ignited the controversy that has included picketing, petitions, sarcastic columns and steady salvos between opposing camps in the letters columns of newspapers. The board's supporters praise such government protection and denounce "child pornography."

"The people of this province want