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# WASHINGTON NEWSLETTER



BOX 54, 110 MARYLAND AVENUE, N.E. • WASHINGTON, D. C. 20002 • TEL. 202-547-4440  
TWX 710-822-1976 ISSN: 0001-1746

Vol. 33

March 25, 1981

No. 3

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Attachments: Funding table  
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### Reagan Budget - ACTION NEEDED

Attached to this Newsletter is a funding table which details the Reagan Administration budget figures for FY 1982 and some changes in FY 1981 funding for library and related programs. Details of the block grant proposals for elementary and secondary education programs (including ESEA IV-B school library resources and instructional materials) are being reviewed at the Office of Management and Budget but have not yet been sent to Congress. The proposed funding level for block grant programs is 20 percent less than current total of the combined programs, rather than the 25 percent mentioned in the March 12 Newsletter. However, the rescissions requested for FY 1981 involve 25 percent cuts.

**ACTION NEEDED:** Members of Congress have received very little mail so far on the impact of specific library cuts, or on the combined impact on many libraries of cuts in more than one program together with elimination of CETA public service jobs and cuts in postal subsidies (see following article). Many members of this Congress are new, some of them chairing subcommittees, and have little or no information on the usefulness to their constituents of federal library programs. While Congress must rightly make the final decisions about if and where and how much to cut, do not let them make these decisions without specific information on the results of their actions. Write to your own members now with blind copies to the ALA Washington Office.

### Oversight Hearing on Library Programs

The House Education and Labor Committee and its subcommittees have been holding hearings on the impact of the budget cuts on programs under their jurisdiction. Such an opportunity will be provided for library supporters on April 7 at 10:00 a.m. (during Legislative Day of National Library Week) at the Oversight Hearing on Library Programs cosponsored by the House Elementary, Secondary and Vocational Education Subcommittee and the Postsecondary Education Subcommittee. If you have information on the impact of budget cuts that would be helpful to any of the following witnesses, you are encouraged to contact them through the ALA Washington Office: ALA President Peggy Sullivan, Chicago Public Library; Louise Bedford, Montgomery County, Ky. Public Schools; Bob Carmack, University of South Dakota Library; Delia Martinez, Nevada Equal Rights Commission and Chair of the White House Conference on Library and Information Services Task Force (whcLIST); and Laura Chodos, New York State Board of Regents and member, whcLIST Steering Committee.

### Postal Subsidy Cuts

The fourth class library postal rate could increase 138 percent by October 1 if the Reagan Administration's proposed cuts in revenue foregone appropriations to the U.S. Postal Service are enacted by Congress. For FY 1982, the estimated authorization for revenue foregone for library rate materials is \$32 million. Of this amount, approximately \$35 million is the continuing appropriation permanently authorized to pay the difference between attributable costs and total costs for this class of mail. The other \$20 million is the amount which pays the "phasing" of rates over a 16 year period beginning in 1971 and ending in 1987.

The Reagan Administration has proposed that the total revenue foregone appropriation be reduced from \$800 million to \$500 million. If this full cut were approved, the entire phasing appropriation would be eliminated. The Postmaster General would undoubtedly exercise his authority under 39 USC 2627 to increase the rates to make up the loss caused by the failure of appropriations. If this were done, library rates would go from the current step nine rate (21 cents for the first pound) to 50 cents. Therefore, the rates would more than double overnight. This likely increase in the library rate would come on top of the March 22 increase approved by the USPS Board of Governors which raised the library rate by 32 percent -- a much higher increase than for any other class of mail. (See March 12 Newsletter for details on the March 22 library rate increase.)

**ACTION (AND DATA) NEEDED:** The Senate Budget Committee has already approved the proposed cuts (in a budget revision measure, S.Con.Res. 9); the House Budget Committee is expected to act shortly. Let your own members of Congress know immediately how cuts in revenue foregone funding to USPS and the resulting increase in postal rates would affect your library. This is especially important if one of your own members is on the House Budget Committee (see list attached to March 12 Newsletter) or the House or Senate Treasury-Postal Service-General Government Appropriations Subcommittee (see list attached to February 10 Newsletter). In addition, the ALA Washington Office needs specific information on the impact on libraries of such a large increase in the library postal rate. Please write to us directly at 110 Maryland Ave., N.E., Box 54, Washington, D.C. 20002 (202/547-4440) or send blind copies of your letters to Congress containing this information.

### Medical Libraries

Rep. Henry Waxman (D-CA), Chair of the House Energy and Commerce Committee's Subcommittee on Health and the Environment, introduced March 17 legislation (HR 2562) to reauthorize several programs under the Public Health Service Act. The bill includes a one-year extension of the Medical Library Assistance Act (MLAA) at an authorization level of \$9 million, half the current level of \$18.5 million, and less than the FY 1981 funding level of \$9,831,000.

Drastic as this cut seems, it is not all the Administration has in mind for medical libraries and other health programs. According to Waxman's introductory statement on HR 2562 (March 19 Congressional Record, pp. E1219-21, daily edition), the Administration "has proposed a radical departure from the existing practice of targeting federal health dollars for specific health programs," and would combine 26 separate programs into two block grants to the states with funding at only 75 percent of the current level. Waxman said he is "prepared to meet the administration more than half way" by cutting funding but does not accept the block grant proposal which "would result in a fundamental retreat from our commitment to and responsibility for federal health programs, and a lack of accountability on the part of the states as to how these federal funds are spent." He takes the Administration to task for not providing any supporting analysis or data to justify the restructuring proposal.

Waxman's alternative extends MLAA for only one year because it "will be reviewed next year when the subcommittee reconsiders the statutory authorities for the National Institutes of Health." In the Senate, no bill has yet been introduced, but the Senate Labor and Human Resources Committee, chaired by Sen. Orrin Hatch (R-UT), will hold hearings on MLAA and other health programs on April 1.

### Telecommunications

Radio Deregulation. The January 14 Federal Communications Commission decision deregulating radio was published in the February 24 Federal Register (pp. 13888-955). Effective April 3 the FCC is eliminating its current processing guidelines on the amounts of non-entertainment programming required, the maximum amount of commercial minutes per hour, and requirements for community ascertainment and keeping a program log -- all for commercial radio stations. The decision includes interesting summaries of the comments received on public service announcements.

The Senate Communications Subcommittee, chaired by Sen. Barry Goldwater (R-AZ), has held hearings on S. 270, the Radio Deregulation Act of 1981, introduced January 27 by Sen. Harrison Schmitt (R-NM) with several subcommittee members as cosponsors. Feeling that statutory as well as administrative deregulation was necessary, Schmitt's bill would, among other things, prohibit the FCC from requiring any particular type of programming, program format, or ascertainment of the needs and interests of station service areas.

Public Broadcasting. Bills extending but reducing the federal role in public telecommunications were introduced March 17 by Sen. Goldwater (S. 720) and March 23 by Rep. James Collins (R-TX), HR 2774). Both bills would decrease the authorization for the Corporation for Public Broadcasting, limit its range of activities, and reduce the CPB Board from 15 to 7 members. The Collins bill does not reauthorize the Public Telecommunications Facilities program. The Goldwater bill extends it, but with the current authorization level of \$40 million reduced to \$16 million in FY 1982, \$11 million in FY 1983 and \$7 million in FY 1984. The facilities program, administered by the Commerce Department's National Telecommunications and Information Administration, provides grants for broadcast equipment and other telecommunications hardware to public broadcasting stations. Under S. 270, funds would be focused on reaching the 35 percent of the population now unserved by public radio.

Neither bill extends the Education Department's Telecommunications Demonstration program which expires on September 30. However, oversight of the demonstration program may be included in public telecommunications hearings scheduled for March 25 and 26 by the House Telecommunications, Consumer Protection and Finance Subcommittee, chaired by Rep. Timothy Wirth (D-CO), and April 6 and 8 by the Senate Communications Subcommittee. Last funded in FY 1980 at \$1 million, telecommunications demonstrations is zero funded in Reagan's FY 1982 budget, although Carter had requested \$2 million.

### Taxation - Manuscript Donations to Libraries

The attached reprint gives full information on Sen. Max Baucus' bill, S. 649, to restore a tax deduction for authors' manuscripts donated to libraries. Constituent letters of thanks to Baucus and cosponsors would be appropriate, as well as to Reps. Brodhead and Richmond for similar House bills. Letters to your own Senators urging support and cosponsorship are also needed (with blind copies to ALA Washington Office).

### National Endowment for the Humanities Grant Deadline

July 15 is the application deadline for the NEH humanities projects in libraries program described in the November 12, 1980 Newsletter. Guidelines from: Thomas Phelps, Humanities Projects in Libraries, NEH Mail Stop 406, 806 15th St., N.W., Washington, D.C. 20506 (202/724-0760).

REAGAN BUDGET FOR LIBRARY AND RELATED PROGRAMS

|   | FY 1981<br>Appropriations* | FY 1981<br>Reagan<br>Revision | FY 1982<br>Reagan<br>Budget |
|---|----------------------------|-------------------------------|-----------------------------|
| ESEA Title IV-B - School Libraries      | \$171,000,000 <sup>1</sup> | \$ 128,250,000 <sup>1</sup>   | \$ ? <sup>2</sup>           |
| GPO Superintendent of Documents         | 23,400,000                 | 23,400,000                    | 29,279,000                  |
| Higher Education Act - title II         | 12,155,000                 | 12,155,000                    | 7,167,000                   |
| Title II-A - College Lib. Resources     | 4,988,000                  | 4,988,000                     | - 0 -                       |
| II-B - Training                         | 667,000                    | 667,000                       | 667,000                     |
| II-B - Demonstrations                   | 500,000                    | 500,000                       | 500,000                     |
| II-C - Research Libraries               | 6,000,000                  | 6,000,000                     | 6,000,000                   |
| Library of Congress                     | 176,844,000                | 176,844,000                   | 197,611,000                 |
| Library Services & Construction Act     | 74,500,000                 | 74,500,000                    | 58,875,000                  |
| Title I - Library Services              | 62,500,000                 | 62,500,000                    | 46,875,000                  |
| II - Pub. Lib. Construction             | - 0 -                      | - 0 -                         | - 0 -                       |
| III - Interlibrary Cooperation          | 12,000,000                 | 12,000,000                    | 12,000,000                  |
| Medical Library Assistance Act          | 9,831,000                  | 9,831,000                     | 8,925,000                   |
| Nat'l. Commis. Lib. & Info. Science     | 691,000                    | 695,000                       | 702,000                     |
| National Library of Medicine            | 34,899,000                 | 34,558,000                    | 38,752,000                  |
| USDA SEA Technical Information Systems  | 8,541,000                  | 8,541,000                     | 9,271,000                   |
| LIBRARY RELATED PROGRAMS                |                            |                               |                             |
| Adult Education Act                     | 120,000,000 <sup>1</sup>   | 90,000,000 <sup>1</sup>       | ? <sup>2</sup>              |
| Community Schools                       | 10,000,000                 | 3,138,000                     | ? <sup>2</sup>              |
| Consumers Education                     | 3,617,000                  | 2,713,000                     | ? <sup>2</sup>              |
| Corporation for Public Broadcasting     | 172,000,000 <sup>3</sup>   | 120,000,000 <sup>3</sup>      | 110,000,000 <sup>3</sup>    |
| Educ. Handicap. Children (state grants) | 922,000,000 <sup>1</sup>   | 691,500,000 <sup>1</sup>      | ? <sup>2</sup>              |
| Education TV Programming                | 6,000,000                  | 6,000,000                     | 6,000,000                   |
| ESEA Title I-Educ. Disadv. Children     | 3,514,772,000 <sup>1</sup> | 2,636,028,000 <sup>1</sup>    | ? <sup>2</sup>              |
| II-Basic Skills Improvement             | 35,000,000 <sup>1</sup>    | 26,250,000 <sup>1</sup>       | ? <sup>2</sup>              |
| IV-C-Educ. Innov. & Support             | 91,400,000 <sup>1</sup>    | 50,000,000 <sup>1</sup>       | ? <sup>2</sup>              |
| V-B-State Agency Mgt.                   | 51,000,000 <sup>1</sup>    | 38,250,000 <sup>1</sup>       | ? <sup>2</sup>              |
| VII-Bilingual Education                 | 174,963,000                | 131,222,000                   | 139,970,000                 |
| Ethnic Heritage Studies                 | 3,000,000                  | 2,250,000                     | ? <sup>2</sup>              |
| Gifted & Talented Children              | 6,280,000                  | 4,710,000                     | ? <sup>2</sup>              |
| HEA Title I-B-Education Outreach        | 15,000,000                 | 2,200,000                     | - 0 -                       |
| III-Developing Institutions             | 120,000,000                | 120,000,000                   | 129,600,000                 |
| VI-International Educ.                  | 17,000,000                 | 17,000,000                    | 17,000,000                  |
| VII-Construction& Renovation            | 26,000,000                 | 26,000,000                    | 25,500,000                  |
| IX-A&B-Grad/prof. Ed. Opport.           | 11,000,000                 | 11,000,000                    | 11,000,000                  |
| Indian Education Act                    | 81,680,000                 | 81,680,000                    | 81,096,000                  |
| Metric Education                        | 1,840,000                  | 1,380,000                     | ? <sup>2</sup>              |
| Nat'l. Center for Educ. Statistics      | 9,947,000                  | 9,947,000                     | 9,947,000                   |
| National Endowment for the Arts         | 158,560,000                | 158,560,000                   | 88,000,000                  |
| National Endowment for the Humanities   | 151,299,000                | 151,299,000                   | 85,000,000                  |
| Nat'l. Historical Publ. & Rec. Comm.    | 4,000,000                  | 4,000,000                     | - 0 -                       |
| National Institute of Education         | 74,114,000                 | 74,114,000                    | 61,000,000                  |
| Postsecondary Educ. Improvement Fund    | 13,500,000                 | 13,500,000                    | 13,500,000                  |
| Public Telecommunications Facilities    | 25,705,000                 | - 0 -                         | - 0 - <sup>2</sup>          |
| Teacher Centers                         | 13,000,000                 | 9,750,000                     | ? <sup>2</sup>              |
| Telecommunications Demonstrations       | - 0 -                      | - 0 -                         | - 0 - <sup>2</sup>          |
| Women's Education Equity                | 10,000,000                 | 7,500,000                     | ? <sup>2</sup>              |

\* Most of these programs funded only through June 5, 1981 by a continuing resolution, PL 96-536. Exceptions are USDA, Indian Education, and Arts and Humanities Endowments, funded for the entire 1981 fiscal year.

<sup>1</sup> Advance funded program. <sup>2</sup> Included in block grant proposal with funding approx. 20% less than total for combined programs in FY1981 cont. res. <sup>3</sup> CPB funded two years in advance.



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 97<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 127

WASHINGTON, FRIDAY, MARCH 6, 1981

No. 37

## Senate

On March 6, Sen. Max Baucus (D-MT) introduced S. 649, the Artist's Tax Equity and Donation Act, with cosponsors Richard Lugar (R-IN), Robert Kasten (R-WI), Patrick Leahy (D-VT), and Harrison Williams (D-NJ). The bill would provide a tax deduction equal to the fair market value of artwork or manuscripts donated by the creator to a library or museum -- the same deduction which is already available to collectors of such works who donate them to nonprofit institutions. Reprinted below is Sen. Baucus' introductory statement plus the text of S. 649, and supportive statements from several organizations including the American Library Association and the Association of Research Libraries, and resolutions passed by ALA and the White House Conference on Library and Information Services. Similar bills have been introduced in the House by Rep. William Brodhead (D-MI, HR 148) and Rep. Frederick Richmond (D-NY, HR 444).

(Page S1913)

By Mr. BAUCUS (for himself, Mr. LUGAR, Mr. KASTEN, Mr. LEAHY, and Mr. WILLIAMS):

S. 649. A bill to amend the Internal Revenue Code of 1954 to provide that the executor may elect, for estate tax purposes, to value certain items at an amount equal to the adjusted basis of the decedent in such items and to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

ARTIST'S TAX EQUITY AND DONATION ACT OF 1981

● Mr. BAUCUS. Mr. President, it is with great pride that I introduce today the Artist's Tax Equity and Donation Act of 1981. I am pleased to have a number of my colleagues join me in this effort: Senators LUGAR, KASTEN, LEAHY, and WILLIAMS.

Enactment of this bill will accomplish several important objectives. The Artist's Tax Equity and Donation Act will enhance the ability of our nonprofit and government institutions to acquire and preserve this Nation's cultural and artistic treasures; it will promote charitable donations of artistic gifts to our Nation's repositories of our cultural heritage; and it will encourage productivity by creative individuals who are now discouraged by the taxation of the fruits of their labor at death or upon disposition of their works.

The Artist's Tax Equity and Donation Act will correct some of the special tax

problems artists face because of the nature of their profession. Current Federal tax laws unfairly treat artists and their heirs. My proposal will go a long way toward removing the major tax inequities now facing the creators of valuable, cultural, artistic and literary materials.

#### VALUATION OF CERTAIN ITEMS CREATED BY A DECEDENT

The Artist's Tax Equity and Donation Act consists of two provisions. First, the bill amends present estate tax laws to ease the burden of inheritance taxes for the heirs of artists. Current Federal estate tax laws are unfair not only to America's artists and their families, but also to all Americans who are being deprived of an extraordinary source of our national cultural heritage as a result of these laws.

A professor at one of my State's fine universities asked me this question:

Can a civilized nation have tax laws that result in the destruction of art?

I believe the answer must be a resounding "no." Unfortunately, that is not the answer given by our country's tax laws today.

Under current tax law, the heirs of artists are required to pay estate taxes on the fair market value of inherited works of art. The important point to remember is that, for most artists, the bulk of their estate is comprised of their own unsold art, rather than other assets—like cars, jewelry, furniture, stocks

and bonds—which have a readily ascertainable value and are easily marketable.

And, unlike such items, like an expensive, rapidly appreciating piece of jewelry, which are held for investment purposes, artworks often remain in the creator's estate for the simple reason that the artist was unable to sell them, or even give them away to a museum or charity. Ironically, when the artist is alive and does donate his or her work, our tax laws only permit a charitable deduction equal to the artist's cost of materials in the work. Yet, when the artist dies, the very artwork which could not be sold or even given away are, at that instance of death, mystically transformed into valuable assets which are subject to estate taxes computed on their full market value—a value which is speculative at best.

I cannot overstate the devastating impact that these tax laws have on an artist's family. Families of artists, who are unable to sell their creative works, have had to live on limited, moderate incomes and find that, at the moment of the artist's death, they suddenly become wealthy because of that same unsold art. But that wealth is illusory for all but tax purposes.

Actually, families faced with an enormous estate tax bill due on unsold works often do not have sufficient money on hand to pay the tax bill. So, the artwork must be sold in order to pay the estate

tax due on them. It is at that time, the artist's family is faced not only with a limited market, but also with a buyer's market. In these desperation sales, collectors and other buyers can get the art for a bargain. Hence, the very artwork, which when unsold were valued at fair market value for tax purposes, often have to be sold at prices far below market value in order to pay the estate tax.

Many times, even the sale of the artwork will not bring in enough money to pay off the tax bill. Other assets must then be sold to raise the needed additional capital—and sometimes this means selling the family home. This is exactly what happened to the widow of "Pogo" creator, Walt Kelly. In a newspaper article several years ago, Selby Kelly said that after her husband's death, the first legal advice given her was to declare bankruptcy. Mrs. Kelly said:

I didn't take that advice, but, I was forced to sell our home, a beautiful brownstone—and live very simply today.

Mrs. Kelly went on to say that she was able to survive financially during this period because, a cartoonist herself, she was able to continue many "Pogo" projects and thus produce enough income to pay the tax bills.

What happened to Mrs. Kelly is not an isolated incident. Regrettably, reports of similar situations—and ones where the families are not even as fortunate as Mrs. Kelly was in being able to generate some income by continuing her husband's projects—are becoming commonplace. No wonder then, that artists, painfully aware that their creative work may, at their death, place their families in severe financial jeopardy, are producing less and are actually destroying the very art they worked so hard to create. A few years ago, Arizona artist, Ted DeGrazia burned his paintings worth \$1.5 million because his wife simply could not afford to inherit them. Other artists voiced like intentions.

What a waste of talent. What an unfair burden upon artists and their families. What a blow to our Nation's cultural heritage. What a loss to all Americans.

My proposal would end this inequity in a very simple way. The bill would give the executor of an artist's estate an optional method of estate tax evaluation of unsold created works. Thus, the executor could elect, for estate tax purposes only, either first to value the works at their fair market value, as under present law, or second, to value the artwork at the cost of the materials used to create them.

Essentially, this provision relieves artists of the agonizing pressure to destroy the fruits of their own labor in order to protect their families, and end the tragedy suffered by artist's families in having to sell the artwork to pay the estate taxes. It would allow each created work to achieve its own true value.

#### TAX TREATMENT OF DONATED WORKS

The second provision of the Artist's Tax Equity and Donation Act is designed to reverse the decline in donations of art to nonprofit institutions. This provision

would permit the creator to receive a deduction equal to the fair market value of the work. Collectors of artwork now enjoy favorable tax treatment when donating their work. My bill simply places artists on an equal footing by allowing them also to receive this tax benefit.

Present law, adopted in 1969, allows an artist to deduct only the cost of the materials when donating the work to a museum. Study after study has confirmed the devastating impacts of the 1969 law. The creators of artworks have virtually stopped donating their works to public and government institutions.

Prior to 1969, the creators of artwork, including goods created by public officials, could be donated to libraries, archives, and other nonprofit institutions in return for a large tax deduction for those contributions. Congress decided to change the Tax Code specifically to stop some elected officials from using and abusing this tax privilege. But, when Congress closed this loophole for elected officials, it unintentionally also changed the tax laws that allowed creators to contribute their artworks, manuscripts, and compositions to museums and libraries. Ironically, the 1969 amendments preserved this tax break for the collector, but denied it to the creator of the work.

Mr. President, we have had over a decade to evaluate the impact of the 1969 tax law. To an astounding degree, creators are failing to donate their works to public and government institutions. The 1969 law has had the effect of drying up a critical source of art for our universities, museums, and other public institutions. And, the public has been deprived from increasing access to this Nation's most precious treasures.

The Artist's Tax Equity and Donation Act will, therefore, restore the pre-1969 tax treatment for donations made by the creators of artwork. This legislation, however, will retain the prohibition regarding contribution of official papers by elected officials.

The work of America's artists forms a record of the emotions and ideas of generations of Americans. Nothing tells us more about ourselves or our past than the works of these very special people. My State of Montana boasts some of the most famous Western artists and literary figures of our history. Yet, the present tax laws pose enormous problems for the preservation of their works.

My proposal will alleviate the burdens which the present Tax Code imposes on artists and their families all across America. Artists will benefit from the bill. But, the real beneficiaries will be the public. Passage of this bill will encourage creators to produce and enhance the ability of our nonprofit and government institutions to acquire and preserve for all generations a chronicle of our Nation's great history.

Mr. President, I have developed this legislation in consultation with many of the major organizations interested in the arts. This measure enjoys widespread support and I am grateful to those individuals who have worked with me.

Several organizations have conveyed

their formal support for the Artist's Tax Equity and Donation Act. I ask that the text of the bill be printed in the RECORD. I also ask that letters by the American Library Association, American Arts Alliance, Association of Research Libraries, and the Mississippi Valley Collection in Tennessee be printed in the RECORD at this point.

The bill and letters follow:

S. 649

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Artist's Tax Equity and Donation Act of 1981".*

#### SEC. 2. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

"(A) IN GENERAL.—In the case of a charitable contribution of any literary, musical, or artistic composition, any letter or memorandum, or similar property if such property was created by the personal efforts of the taxpayer making such contribution, the amount of such contribution shall be the fair market value of the property contributed at the time of such contribution and no reduction in such amount shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee."

#### SEC. 3. VALUATION OF CERTAIN ITEMS CREATED BY THE DECEDENT FOR ESTATE TAX PURPOSES.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 of the Internal Revenue Code of 1954 (relating to gross estate) is amended by inserting after section 2032A the following new section:

#### "SEC. 2032B. VALUATION OF CERTAIN ITEMS CREATED BY THE DECEDENT.

"(a) GENERAL RULE.—If—

"(1) the decedent was (at the time of his death) a citizen or resident of the United States, and

"(2) the executor elects the application of this section,

then, for purposes of this chapter, the value of qualified creative property shall be determined under subsection (b).

"(b) VALUE OF QUALIFIED CREATIVE PROPERTY.—For purposes of subsection (a), the value of qualified creative property of the decedent shall be an amount equal to the adjusted basis (within the meaning of section 1011) of the decedent in such property immediately before his death.

"(c) QUALIFIED CREATIVE PROPERTY DEFINED.—For purposes of this section, the term 'qualified creative property' means any copyright, any literary, musical, or artistic composition, any letter or memorandum, or any similar property—

"(1) which was held by the decedent at the time of his death, and

"(2) which was created by the personal efforts of the decedent.

"(d) ELECTION.—The election under this section shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe."

(b) CONFORMING AMENDMENT.—The table of sections for such part III is amended by inserting after the item relating to section 2032A the following new item:

"Sec. 2032B. Valuation of certain items created by the decedent."

#### SEC. 4. EFFECTIVE DATES.

(a) CHARITABLE CONTRIBUTIONS.—The amendment made by section 2 shall apply to contributions made after December 31, 1980.

(b) ESTATE TAX VALUATION.—The amendments made by section 3 shall apply to estates of decedents dying after December 31, 1980.

AMERICAN LIBRARY ASSOCIATION,  
Washington, D.C., February 19, 1981.

Hon. MAX BAUCUS,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR BAUCUS: I am writing to inform you of the strong support of the American Library Association for legislation you plan to introduce restoring a tax incentive for authors and artists to donate their creative works to libraries and museums. The American Library Association is a nonprofit educational organization of over 35,000 librarians, library trustees and public-spirited citizens dedicated to the development of library and information service for all the American people.

Prior to the Tax Reform Act of 1969, an author or artist who donated his or her literary, musical or artistic compositions or papers to a library or museum could take a tax deduction equal to the fair market value of the items at the time of the contribution. Since 1969, such deductions have been limited to the cost of the materials used to produce the composition.

As a result, donations of manuscripts and papers from authors and other figures to libraries have dwindled drastically. The Library of Congress, for instance, has received only 15 new literary manuscript collections in the last ten years. In prior years, 15 to 20 such gifts were received annually. In addition, some 35 well-known composers have ceased donating music manuscripts, including Samuel Barber, Aaron Copland and Walter Piston. A number of leading artists no longer make gifts to the Library of original works, including several New Yorker cartoonists.

Other libraries report a similar decline. A fact sheet summarizing the results of a recent survey of the effects on libraries of the Tax Reform Act of 1969 is attached. Since libraries are generally unable to compete for manuscripts on the open market, the result may be that an entire generation of literary papers may be lost to future scholars. Private collectors may or may not make their collections available. Libraries were formerly able to search out manuscripts of minor figures or early work of authors who would later be famous. Such manuscripts may never reach the open market, but may languish in attics or be discarded or destroyed.

I would also call your attention to the attached resolution in favor of restoring a tax incentive for such donations adopted by the American Library Association in June 1979, and a similar resolution (also attached) approved by the White House Conference on Library and Information Services in November 1979. Two-thirds of the over 1,000 White House Conference delegates were

lay persons with no direct connection to libraries, indicating widespread citizen support for such legislation.

The American Library Association is most appreciative of your interest and support in this matter, and stands ready to provide any further information or assistance you may require.

Sincerely,

EILEEN D. COOKE,  
Director.

#### MANUSCRIPT DONATIONS TO LIBRARIES—EFFECT OF THE 1969 TAX REFORM ACT

Prior to the Tax Reform Act of 1969 (PL 91-172), an author or artist who donated his or her literary, musical or artistic compositions or papers to a library or museum could take a tax deduction equal to the fair market value of the items at the time of the contribution. Since 1969 such deductions have been limited to the cost of the materials used to produce the composition. In July 1979 Norman Tanis and Gayle Goldberg from the library at California State University, Northridge, surveyed over 200 libraries to determine the effect of the 1969 law on manuscript donations to libraries. In summary, their survey indicates:

1. The libraries most affected by the Tax Reform Act are those which collect contemporary literature, art, and music. Collections have experienced a definite decline traceable to the present tax structure.

2. The Tax Reform Act has also increased the practice of accepting gifts "on deposit," a costly practice for libraries with a limited benefit to scholars and researchers.

3. The tax reform has definitely limited bibliographic and physical accessibility of manuscript collections through (1) reduced donations, and (2) in cases where donations have been accepted "on deposit," through restricted use policies mandated by donors. In addition, illogical locations and divided collections, as well as the separation of collections from closely related materials, have posed considerable problems for researchers.

4. With tighter budgets, libraries are at a disadvantage in competing for manuscripts offered for sale. The highest bidder for an item may be outside the state or region where it was produced, or in some cases, outside the United States entirely.

5. The loss of valuable archival materials is indeterminable. Specific instances of manuscript collection losses directly attributable to lack of tax deductions were cited by many responding libraries. However, the number of authors, artists, and composers who may have come forward with manuscript donations had the Tax Reform Act not been in effect will never be fully known.

Among the librarians reporting, the following comments are illustrative:

California.—The Act has had a significantly deleterious effect upon this library's acquisition of scholarly materials that would otherwise have come our way, including literary manuscripts and correspondence and scientific notebooks.

Colorado.—The elimination of tax deductions for originators of documents has very much limited our ability to acquire literary manuscripts by donation. The interests of students and faculty at this institution and elsewhere would be well served by a liberalization of the law.

Illinois.—The need to sell manuscripts, rather than donate them, can lead to their increased acquisition by individuals, rather than by institutions, thus limiting their bibliographical and physical accessibility. Acquisition through sale can tend to result in the illogical location of materials, separating manuscripts from other closely related materials, more than acquisition through donation. It is quite possible that long-term results of the law will be a broader scattering of like resources and diminished

accessibility of those resources for research nationally.

Kansas.—We have received a fairly large quantity of authors' manuscripts since the passage of the act but only on deposit (one insignificant exception). All authors have expressed a desire to give us their manuscripts but cited the act as making it financially impossible for them to do so. We have catalogued these deposit collections and (with the depositors' permission) made them available to researchers on a limited basis. If no liberalization takes place, these collections will ultimately be removed, we will be out a packet of professional time and money and a lot of researchers will be greatly discommoded.

Louisiana.—For visual materials such as drawings and paintings, there is absolutely no incentive to make donations to the library. For a time we were attempting to build a collection of contemporary Louisiana art work through donations but a number of artists we approached said that it wasn't worth their while to donate under present tax restrictions. A number of Louisiana photographers said the same thing; in the case of photography this is particularly unfortunate, as some of the work was of considerable research value.

Missouri.—The denial of tax deductions has had a punitive effect on both the creators and the library and has resulted, in our opinion, in a serious disruption to scholarship inasmuch as manuscripts created since 1970 have by and large not been available to researchers who need them. There are several instances in which we hold the personal and literary papers, correspondence, etc., of significant American literary figures only up to 1970. Papers created since then have been retained (safely, we trust) in the authors' hands, pending a change in the law. We are now, of course, talking about a ten-year gap in the public record.

New Hampshire.—We know of several local writers who would have otherwise been willing to give us their papers. They now prefer to sell their manuscripts and we generally cannot afford to buy them. Often the papers go out of state to less appropriate institutions.

New York.—One very recent case: a well-known writer, a donor to this library in the past, put certain of his manuscripts on the open market. We had some related materials already; unfortunately, we could not compete.

Pennsylvania.—Since 1969 the direct gift of self-created manuscripts has declined. Two manuscript acquisition procedures have increased significantly: (1) More material is placed on deposit for future consideration of purchase or for future changes in the tax law. This has resulted in more complicated arrangements and uncertainty in the future status of the material. (2) More gift offers are withdrawn once the donor is informed of the tax situation.

Rhode Island.—Our efforts to acquire donations have met with continued frustration. The number of unsolicited offers has declined as well. As a result, we have been forced to compromise our rule against accepting collections on deposit and additional strains have been placed on our acquisitions budget.

Texas.—In some cases, it has meant that a gift most suited for one library has instead gone to another library which could pay more for it. In other cases, it has meant that works could not be given to libraries even when their authors would have preferred to give them and would have under the old laws.

Virginia.—One young author, approached after the law went into effect, placed 20-30 boxes of correspondence and manuscripts on deposit. He later withdrew the collection and put it up for sale. It was offered

to this institution, but the library had no funds to purchase it, so it lost the collection.

Wisconsin.—Several potential donors have expressed regrets when introduced to the realities of the 1969 Act, and if our limited experience reflects the national scene, the total losses to the nation's libraries must be staggering.

Wyoming.—No precise figures are available, but I estimate a 25 percent decrease in the numbers of donors of manuscripts and letters.

#### RESOLUTION ON LITERARY, MUSICAL, AND ARTISTIC DONATIONS TO LIBRARIES

Whereas prior to the Tax Reform Act of 1969 (PL 91-172), an author or artist who donated his or her literary, musical or artistic compositions or papers to a library or museum could take a tax deduction equal to the fair market value of the items at the time of the contribution, and

Whereas since 1969 such deductions have been limited to the cost of the materials used to produce the composition, and

Whereas since 1969 donations of manuscripts and papers from authors and other figures to libraries have been severely reduced, and

Whereas libraries, in their present precarious financial condition, are rarely able to compete successfully for manuscripts on the open market, and

Whereas an entire generation of literary papers may be lost to future scholars through lack of an incentive to donate them to libraries, and

Whereas restoration of the tax deduction would contribute to the equitable tax treatment of authors and artists and would increase public access to and preservation of the nation's literary and artistic legacy: Therefore be it

*Resolved*, That the American Library Association supports the restoration of the pre-1969 tax deduction equal to the fair market value of literary, musical or artistic compositions or papers at the time donated by the creator to a library or museum.

#### TAX INCENTIVES FOR DONATIONS OF AUTHORS AND ARTISTS

Whereas, prior to the Tax Reform Act of 1969 (PL 91-172), an author or artist who donated his or her literary, musical or artistic compositions or papers to a library or museum could take a tax deduction equal to the fair market value of the items at the time of the contribution, and

Whereas, since 1969 such deductions have been limited to the cost of the materials used to produce the compositions, and donations to libraries have been severely reduced, and

Whereas, an entire generation of literary papers may be lost to future scholars through lack of an incentive to donate them to libraries, and

Whereas, restoration of a tax incentive would contribute to the equitable tax treatment of authors and artists and would increase public access to and preservation of the Nation's literary and artistic legacy: Therefore be it

*Resolved*, That the United States Congress enact legislation restoring a tax incentive for authors and artists to donate their creative works to libraries and museums.

AMERICAN ARTS ALLIANCE,  
February 25, 1981.

HON. MAX BAUCUS  
Dirksen Senate Office Building,  
Washington, D.C.

DEAR SENATOR BAUCUS: On behalf of the over 400 nonprofit professional arts institutions of the American Arts Alliance, I would like to express our deep gratitude for your introduction of the Artists' Tax Equity and Donation Act of 1981. Passage of this legislation would remedy much of the inequity

which was imposed upon artists as an unexpected consequence of the 1969 tax reforms.

As you know, the Tax Reform Act of 1969 prohibited creators of artwork from taking a tax deduction for the fair market value of the work they contribute to tax-exempt organizations. The primary objective of this legislation was to prevent public officials from abusing the tax system by taking a deduction for the donation of their personal papers. Not a thought was given to the effect of a change in this legislation on the nation's scholars, musicians, and visual artists. Once again, this small, but invaluable, group of Americans was forced to suffer, because of the indiscretions of others.

For over a decade many of these creative Americans have been reluctant to make contributions of their works, because they would receive a deduction only for the cost of their materials. As a consequence, valuable research data and collections are not in the public domain. Gifts to museums and libraries have fallen dramatically, and an entire generation of future scholars has not had access to an important segment of American culture. We must not allow our tax system to deter the progress of this nation's civilization!

In attempts to remedy this unfortunate situation, bills have been introduced in Congress in order to rectify inequities in the laws to allow artists to be treated as equitably as other individuals who make charitable contributions. The Alliance is grateful to you for your attempt to provide fair tax treatment to American artists.

The second provision of your bill is also extremely important. Tax laws have unintentionally treated artists unjustly concerning their estates. Presently, works of art for estate tax purposes are taxed at their fair market value. This provision contradicts sharply with the law that allows an artist who donated the same work shortly before his death to deduct only the cost of materials. Requiring the artist's estate to be taxed at fair market value often imposes a great burden on the heirs. This situation has caused artists in extreme cases to destroy great works of art. Your bill allowing the valuation of artworks to be the adjusted basis of the property immediately before the death of the artist, would solve a major problem plaguing artists and their heirs.

Members of the Alliance, which includes a large number of art museums, and all Americans who wish to encourage the availability and preservation of our cultural heritage, are grateful to you for introduction of this legislation.

Sincerely,

ANNE G. MURPHY,  
Executive Director.

ASSOCIATION OF RESEARCH LIBRARIES,  
Washington, D.C., February 13, 1981.

HON. MAX S. BAUCUS,  
1107 Dirksen Senate Office Building,  
Washington, D.C.

DEAR SENATOR BAUCUS: I am writing on behalf of the Association of Research Libraries, representing 111 major research libraries in North America, to express strong support for legislation which would restore a tax incentive for authors and artists to donate their creative works to libraries and museums.

The tax incentive for contribution of manuscripts and papers to libraries, which prevailed prior to the Tax Reform Act of 1969, enabled research libraries throughout the nation to acquire valuable collections of original research materials from authors, musicians, and scholars. These collections represent an important record of America's cultural heritage and provide researchers with the raw material for study.

Since 1969 such donations have greatly

dwindled; member libraries of our Association have noted decreases of as much as 90 percent. Collections which would formerly have been given to libraries are now often broken up and offered for sale. Important manuscripts and papers may end up in the hands of private collectors because libraries, faced with curtailed funds, have been unable to purchase them. The result is that important bodies of original research materials are unavailable to the public.

As the resolution of the White House Conference on Library and Information Services indicated, "an entire generation of literary papers may be lost to future scholars through lack of an incentive to donate them to libraries."

We understand that you plan to introduce legislation that, by restoring the tax incentive for donating creative work to libraries and museums, will begin to repair the loss to the public of these important documents. We thank you for your efforts and extend our strong support.

Sincerely,

RALPH E. MCCOY,  
Interim Executive Director.

THE MISSISSIPPI VALLEY COLLECTION,  
Memphis, Tenn., February 18, 1981.

SEN. MAX BAUCUS,  
U.S. Senate, Washington, D.C.

DEAR SENATOR BAUCUS: A mailing from the Society of American Archivists has just informed me of the good news that you plan to introduce a bill that will help the collection development in cultural institutions. Once creative persons are again able to get tax deductions for the full fair market value of their papers or works of art, archives, libraries, and museums will be able to attract many valuable collections.

The 1969 tax reform act only allowed people to deduct the cost of copying material donated in their lifetimes to a cultural institution. This act retarded donations and even forced donors to quit donating their materials. In one instance affecting my department, a prominent Tennessee writer Jesse Hill Ford stopped donating his papers to the Mississippi Valley Collection, since we could not begin to buy his papers from him. Mr. Ford unfortunately does not make enough personal income that he could afford to subsidize our collection. Multiply this instance many times across the nation and you have a serious problem in preserving the nation's cultural heritage.

I wish you the best of luck in shepherding your bill all the way through. Enclosed are copies of letters I wrote to Senators Howard Baker and Jim Sasser in support of your bill; let us hope that they are moved by my epistles.

Cordially,

ELEANOR MCKAY, Curator. ●