

State Legislative Roundup

October 2015

Introduction

During states' 2015 legislative session—January through June, generally, though each state has its own legislative calendar—NASAA reviewed more than 400 bills potentially relevant to the arts and state arts agencies (SAAs). From these, we tracked nearly 100 legislative proposals that would be meaningful to state arts agencies if they passed or failed. This review highlights select pieces of legislation to summarize current trends in state cultural policy and to pinpoint specific approaches that may interest state arts agency staff, council members and constituencies.

To offer a nuanced assessment of the cultural policy landscape, this roundup is not limited to legislation that was enacted but also considers proposals that failed or that are still under consideration at the time of this writing. It includes bills that could strengthen the arts, bills that could inhibit support for the arts and bills that would have neutral or difficult-to-predict impact. By presenting a broad cross section of legislation, NASAA aims to equip state cultural leaders with the knowledge to advance policies that ultimately can be *beneficial* to the arts at the state level.

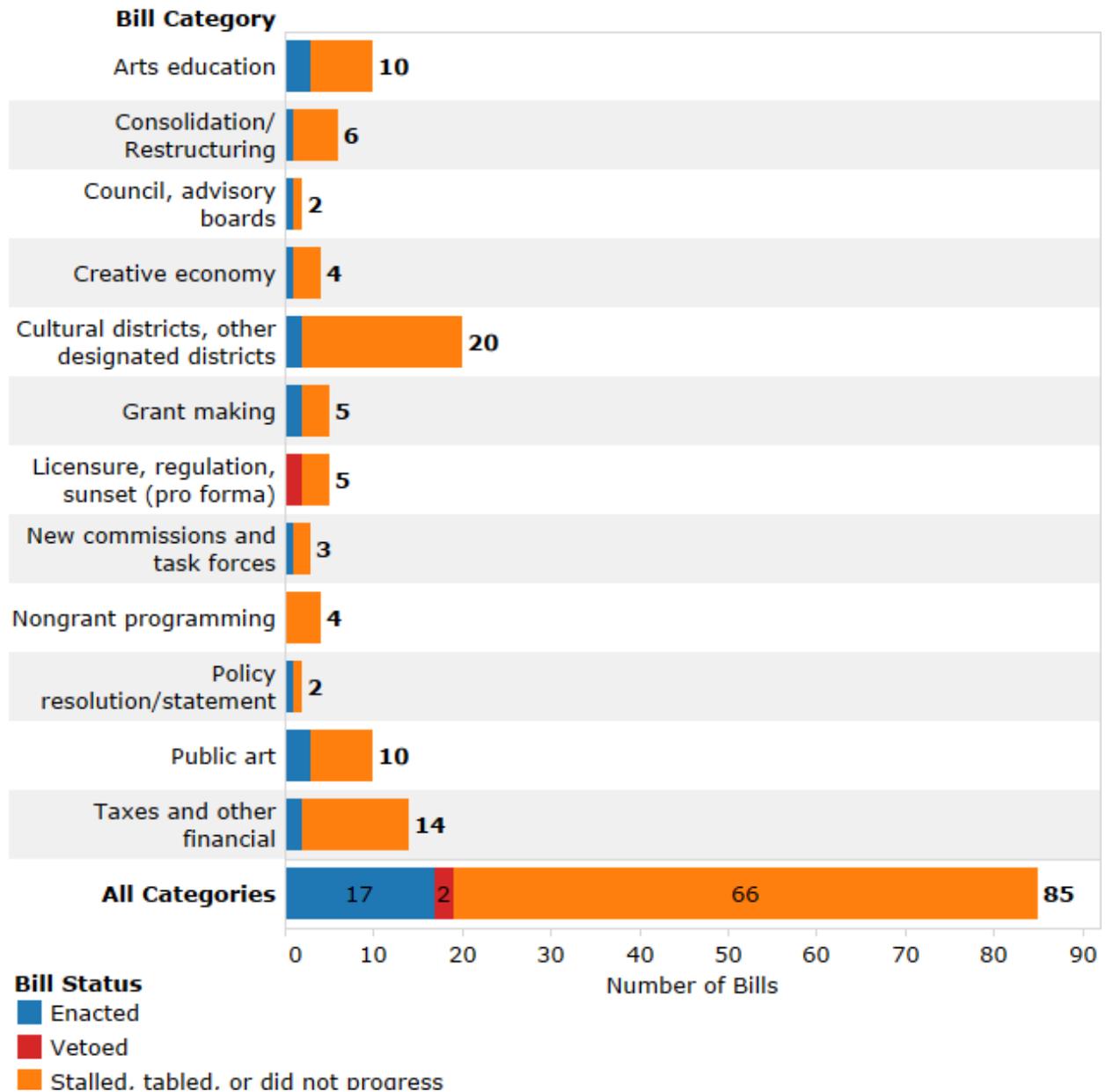
State level arts policy is part of a complex legislative ecosystem, with many political and procedural forces affecting the outcome of any given bill. NASAA therefore employs multiple methods to conduct legislative research, including the use of an on-line tool that tracks the content and status of legislation introduced in every state throughout the year. If you learn of a bill that is important to your agency or may be significant to other states, NASAA would like to know about it. You can share your legislative leads by contacting NASAA Research Manager [Paul Pietsch](#). If you are interested in initiating legislation in your own state, feel free to contact NASAA for help identifying sample bills and information on similar efforts in other states.

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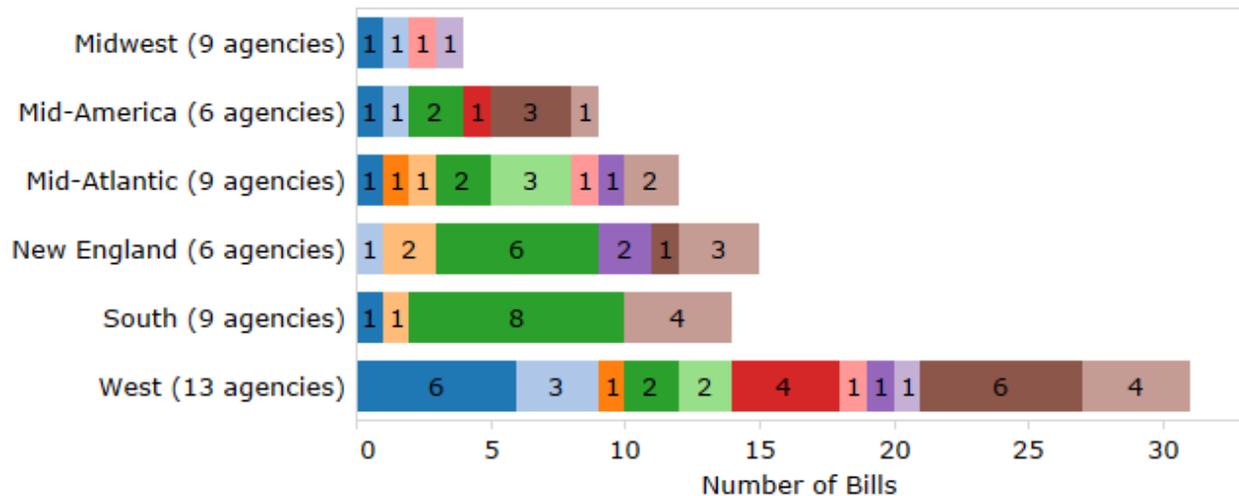
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The legislation NASAA tracked this year can be grouped in 12 categories. The first infographic below charts the legislative progress of the various types of bills considered this year, while the second shows the prevalence of issues within six geographic regions of the country.

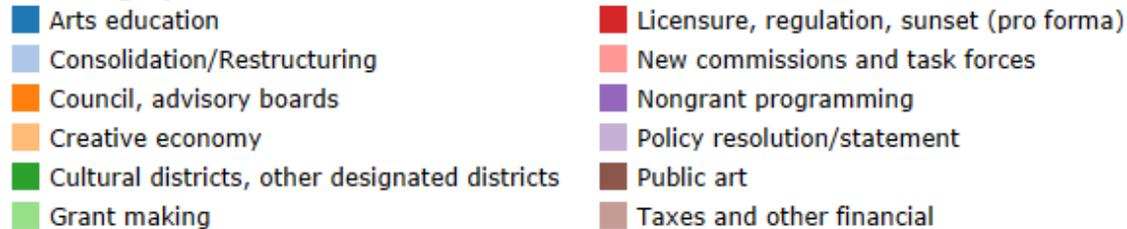
Legislative Status by Bill Type



Bill Category by Region



Bill Category



Highlights of Individual Bills

SAA REVENUE, STAFFING AND PLACEMENT BILLS

Arkansas

[S.B. 382—Studying State Agency Consolidation](#)

Status: Enacted

Summary: This bill, enacted in April, establishes a process for studying possible consolidation of various state agencies into 10 principal departments. Although it does not focus directly on the arts, depending on the results of the study the Department of Arkansas Heritage—the Arkansas Arts Council's parent agency—could be consolidated into another department.

California

[A.C.R. 46—Resolution Calling for Increased Arts Council Funding](#)

Status: Passed

Summary: This resolution declares the legislature's opinion that the arts are important to California and that the Arts Council is essential to the arts. The resolution also urges a united effort between the governor and legislators to increase funding to the Arts Council.

Connecticut

[S.B. 324—Making Connecticut Arts Council an Independent Agency](#)

Status: In committee at adjournment

Summary: This bill, which did not make it out of committee by the end of the session, would have made the Connecticut Arts Council an independent agency—an unusual occurrence for a division of a multiagency department. Currently, the Council is housed within the Connecticut Department of Economic and Community Development. Reportedly, the bill initially had some support but ultimately failed to become a legislative priority.

Hawai'i

[S.B. 1177—Funding Four Additional SAA Staff Positions](#)

Status: Enacted

Summary: This bill, enacted in July, appropriates funds to the Hawai'i State Foundation on Culture and the Arts for four additional staff positions. Not many state legislatures since the Great Recession have approved budgets that enable SAAs to add staff positions or replace those cut during the downturn.

Montana

[S.B. 264—SAA Dedicated Revenue \(Lodging Tax\)](#)

Status: Died in committee after passing the senate and house

Summary: This bill would have amended state statute allocating revenue from the state's bed (lodging) tax collections to various state agencies. Had the bill not died in committee, the Montana Arts Council would have received 1% of the state bed tax. Currently, there are nine state arts agencies that have dedicated revenue streams from state taxes and fees.

Nevada

[S.B. 266—SAA Dedicated Revenue \(Live Entertainment Tax\)](#)

Status: Enacted

Summary: Signed by Governor Brian Sandoval in June, this bill directs the Nevada Department of Taxation to annually allocate \$150,000 to the Nevada Arts Council from its collection of the state's tax on admissions to live entertainment. The bill authorizes the Council to expend the money as a continuing appropriation.

New York

[S. 948—SAA Dedicated Revenue \(Income Tax Return Checkoff\)](#)

Status: In committee at adjournment

Summary: This bill, which did not progress after its introduction, would have created a check-off on the state's income tax form to enable tax filers to contribute funds to the New York State Council on the Arts. Four other state arts agencies currently receive funds from tax return check-offs. Many more have discontinued a similar dedicated-revenue mechanism due to low yield on voluntary contributions.

Agency Relocation Bills Fail

Bills in three states this year proposed relocating the state arts agency's position within state government. None made it out of committee. There was a [proposal](#) in Hawai'i to move the State Foundation on Culture and the Arts from the Department of Accounting and General Services to the Office of Business, Economic Development and Tourism. In Oregon, a [bill](#) would have relocated the Oregon Arts Commission from Business Oregon to the Office of the Secretary of State. And in New Mexico, an [effort](#) failed to combine the Department of Cultural Affairs (the parent agency of New Mexico Arts) and the Department of Tourism.

PUBLIC ART BILLS

Alaska

[H.B. 160—Repealing Percent for Art and Art in Public Places Fund](#)

Status: In committee at adjournment

Summary: This bill, which was still in committee when the legislature went into recess and is now presumed dead, would have repealed Alaska's Percent for Art program as well as its Art in Public Places Fund, which supports the Alaska Contemporary Art Bank.

Massachusetts

[Executive Order 553—Creating Percent for Art Program](#)

Status: Issued and in effect

Summary: In December, Governor Deval Patrick issued this executive order establishing the Massachusetts Percent for Art Program as well as the Massachusetts Public Art Commission to administer it. Only Boston and designated Gateway Cities will participate in the new program.

Massachusetts

[H. 2928—Commission on Increasing Public Art](#)

Status: In committee

Summary: This resolution would create a commission—separate from the Massachusetts Public Art Commission established by the executive order above—to consider how to increase art in public spaces and to develop guidelines for fair and adequate compensation of artists displaying their work in public spaces. The commission would consider possible policy initiatives and changes to regulation and/or statute to these ends. The bill has not had traction to date but the legislative session is still under way.

Missouri

[H.B. 456—Creating Percent for Art Program](#)

Status: In committee at adjournment

Summary: This bill, which never made it out of committee, would have created a statewide percent for art program that would have operated at the county level. If the bill had passed, each county in Missouri would have had to establish its own public art commission to be responsible for managing the selection and implementation of percent for art installations.

New Mexico

[S.B. 159—Defunding Art in Public Places Fund](#)

Status: Action postponed indefinitely prior to adjournment

Summary: This bill would have redirected \$2.5 million from the Art in Public Places Fund to pay for a bookmobile program and the maintenance of museums statewide. The bill passed both the senate and

Percent for Art Policies and Programs

Percent for art is a policy mechanism for funding public art by setting aside a small portion (typically 1%) of the capital costs of state-owned buildings for the installation of artwork. Currently, 27 states and territories have active percent for art programs. These programs generally are managed by SAAs.

NASAA's [Percent for Art State Policy Brief](#) succinctly summarizes the public benefits of these programs as well as the common components of related state policies.



For more information on individual states' percent for art programs, see NASAA's [Public Art page](#).

the house but was not sent to the governor. Prior to the legislative session adjourning, the senate voted to indefinitely postpone action on it.

Nevada

[S.B. 160—Public Art Liability](#)

Status: Enacted

Summary: In May, Governor Brian Sandoval signed legislation clarifying the liability for injuries and death caused by actions to destroy or misuse public art. The new law indemnifies creators, sponsors and owners of public art in these situations.

Oklahoma

[S.B. 283—Optional Participation in Art in Public Places](#)

Status: In committee at adjournment

Summary: This bill, which did not make it out committee before the legislative session ended, would have made participation in the state's percent for art program optional instead of mandatory. Existing policy requires that all capital projects costing more than \$250,000 set aside 1.5% of their budget for public art. The Art in Public Places program has been on hiatus since 2011 when the legislature enacted a moratorium on it.

Oklahoma

[H.B. 1824—Transferring Art in Public Places to Oklahoma Arts Council](#)

Status: Enacted

Summary: In April, Governor Mary Fallin signed this bill, thereby transferring the state's percent for art program from the Oklahoma Historical Society to the Oklahoma Arts Council. The program has been hiatus since 2011 when the legislature enacted a moratorium on it.

Oregon

[S.B. 5525—Funding New Percent for Art Staff Position](#)

Status: Enacted

Summary: This "policy option" appropriations bill, signed by Governor Kate Brown in July, allocates funding to the Oregon Arts Commission to hire a full-time staff person dedicated to its Public Art program.



The Vermillion Arts Council, with support from the South Dakota Arts Council, are sponsoring restoration of a 1978 mural under the direction of artist Dick Termes. Photo by Aaron Packard

Washington State

[S.B. 5190—Repealing Art in Public Places](#)

Status: Reintroduced and retained in special session

Summary: This bill would repeal the state's percent for art program. The bill did not make it out of committee by the end of the regular session but was "reintroduced and retained" when the legislature went into special session.

Washington State

[H.B. 1326—Exempting Transportation Department from Art in Public Places](#)

Status: Reintroduced and retained in special session

Summary: This bill would exempt the state's transportation agency from the percent for art program. It also would prohibit the agency

from expending funds on "decorative finishes or designs that are not integral to the function of a transportation structure." The bill was "reintroduced and retained" when the legislature went into special session. It did not make it out of committee by the end of the regular session.

CULTURAL DISTRICT BILLS

Arkansas

[H.B. 1411—Creating Cultural District Tax Exemption](#)

Status: Died in committee

Summary: This bill would have created an income-tax exemption for qualifying artists in cultural districts. The exemption would have applied to income derived from in-person sales as well as Internet, mail-order and catalogue sales of artwork. The bill died in committee at sine die adjournment.

California

[A.B. 189—Creating Cultural District Certification Program](#)

Status: Enacted

Summary: This bill, enacted in October, creates the policy for a statewide program to certify cultural districts. The California Arts Council is responsible for running the new program and for establishing the process for certifying individual cultural districts.

Kansas

[H.B. 2368—Creating Self-Designating Cultural District Program](#)

Status: In committee at adjournment

Summary: This bill, which did not make it out of committee before the legislature went into recess, would have created a self-designating cultural district program. If it passed, the bill would have enabled any city in the state to designate its own cultural districts and to provide financial incentives within them.

Louisiana

Multiple Bills—Modifying Tax Incentives in Cultural Districts

Status: Two bills enacted ([H.B. 387](#) and [H.B. 629](#)); six still in committee at adjournment ([H.B. 433](#), [H.B. 757](#), [H.B. 788](#), [H.B. 819](#), [S.B. 189](#) and [S.B. 266](#))

Summary: In Louisiana, a number of bills were introduced in effort to trim available tax credits and exemptions, including those available for rehabilitating historic structures in cultural districts. The most popular and impactful tax credit for commercial properties in cultural districts was modified, but only slightly. [H.B. 387](#) delays the sunset of the tax credit, sets the credit at 25% of eligible expenses incurred before 2018, and reduces the amount to 20% for expenses incurred in 2018 and thereafter. The residential version of the credit sustained deeper cuts

Certified Cultural District Programs

Cultural districts are geographically defined areas unifying artists, arts organizations, businesses, community groups and other citizens around the nexus of creative activities in effort to encourage economic, cultural and community development. State cultural district programs typically certify individual districts and provide them with technical assistance, branding, financial incentives and other types of support. Currently, 13 states have established statewide programs and two ([Arkansas](#) and [California](#)) have legislatively enacted policies but have not yet launched a program.

- Colorado—[Creative Districts](#)
- Indiana—[Statewide Cultural Districts](#)
- Iowa—[Cultural & Entertainment Districts](#)
- Kentucky—[Cultural Districts](#)
- Louisiana—[Cultural Districts](#)
- Maryland—[Arts & Entertainment Districts](#)
- Massachusetts—[Cultural Districts](#)
- New Mexico—[Arts and Cultural Districts](#)
- Oklahoma—[Cultural District Initiative](#)
- Rhode Island—[Tax-Free Arts Districts](#)
- South Carolina—[Cultural Districts](#)
- Texas—[Cultural Districts](#)
- West Virginia—[Certified Arts Community](#)

For more information on cultural districts and related resources on creative place making, see NASAA's [Creative Economic Development page](#).

via [H.B. 629](#). A number of other similar bills failed. [S.B. 189](#) would have removed the sunset provision for the income and corporation franchise tax credit. [H.B. 757](#) and [H.B. 819](#) aimed to reduce the dollar amount of tax credits available per taxpayer. [S.B. 266](#) would have capped the total dollar amount of credits available statewide. Finally, [H.B. 788](#) would have eliminated all individual income tax credits available in Louisiana.

Massachusetts

[H. 2485](#), [H. 3291](#), [H. 3292](#), [S. 1545](#) and [S. 1615](#)—[Creating Cultural District Tax Incentives](#)

Status: In committee

Summary: The Massachusetts legislature, which has a year-round session, is considering several bills creating tax incentives for cultural districts. One bill ([H. 3291](#)) would create a tax credit for the construction or retrofitting of artist work spaces. This credit would be administered by the state's Department of Housing and Community Development. Three other bills would create a sales-tax exemption for original works of art. [H. 2485](#) would apply the exemption to artists working anywhere in the state, [S. 1545](#) would offer it only to artists working with "Artist Enterprise Zones" and [S. 1615](#) would limit it to cultural districts. Finally, one bill ([H. 3292](#)) would create a sales-tax exemption for "artisan products" sold in cultural districts.



First Friday evenings in Oklahoma City's Paseo Arts District feature artists, special museum exhibits and entertainment for the community. Photo courtesy of the Oklahoma Arts Council

New Jersey

[A. 4202/A. 3103](#)—[Creating Cultural District Certification Program](#)

Status: Reported from committee

Summary: This bill would create a statewide cultural districts program. If it is enacted, the New Jersey State Council on the Arts would manage the program and establish the process for certifying individual cultural districts. In March, the bill was reported from committee as a substitute and was given a second reading in the assembly. There has been no action since.

New Mexico

[H.B. 583/S.B. 414](#)—[Creating Cultural-Property Tax Credits in Cultural Districts](#)

Status: In committee at adjournment

Summary: This bill, which was "postponed indefinitely" in the house before the legislature adjourned, would have authorized tax credits for projects restoring, rehabilitating or preserving cultural property in cultural districts. Eligible properties would be those listed on New Mexico's register of cultural properties.

Pennsylvania

[H.B. 1193—Creating Cultural District Certification Program with Tax Incentives](#)

Status: In committee

Summary: This bill would create a statewide cultural district program and task the Department of Community and Economic Development with running it and certifying individual districts. Certified districts would exist for five years. Residences and businesses within them would be reimbursed for their state tax burden.

Pennsylvania

[H.B. 1490—Creating Self-Designating Cultural District Program](#)

Status: In committee

Summary: This bill would authorize municipal governments to designate cultural improvement districts and to levy taxes in support of them. As laid out by the bill, local governments only could establish cultural districts by working through an advisory committee, which would weigh various options to enhance an area or institution of cultural or historical significance. Proposed taxation would have to be approved via a public referendum.

ARTS EDUCATION BILLS

New York

[A. 3525/S. 1148—Taskforce on Arts and Music Education](#)

Status: In committee at adjournment

Summary: This bill would have established a task force on arts and music education in elementary and secondary schools. It would have studied and made recommendations on the state's arts and music education curriculum. The bill passed the senate and was referred to assembly, where it remained in committee when the legislature went into recess.

North Carolina

[H. 138—Modifying Graduation Requirements](#)

Status: In committee

Summary: This bill would modify the state's graduation requirements by requiring students to earn one credit in arts education any time between grades six and 12. The bill, which passed the house, is still in senate committee.

Rhode Island

[H. 5776—Encouraging Musical Performance Education in Public Schools](#)

Status: Enacted

Summary: This bill, signed by Governor Gina Raimondo in July, encourages all public middle and secondary schools in Rhode Island to offer musical performance courses, including musical ensembles such as band, chorus and orchestra.

The Education Policy Environment

Public education is a complex amalgam of federal, state and local policy decisions. The Education Commission on the States notes that more than [1,500 pieces of state legislation](#) affecting public education were enacted in 2015 alone. Requirements for curriculum, instructional standards, assessment and teacher licensing all are typically established at the state level. All of these state policies can affect the quality and quantity of arts education that students receive—and all can become points of contention when limited resources coincide with differing political philosophies about education.

For information on arts education policies across all 50 states, consult the [ArtScan](#) database, a project of the Arts Education Partnership.

South Carolina

[H. 3701—Arts Curricula Funding for Department of Education](#)

Status: Enacted (veto overridden)

Summary: In part, this appropriations bill allocates \$1 million in arts curricula funding to the South Carolina Department of Education. In June, Governor Nikki Haley line-item [vetoed](#) the funding from the bill. The state legislature ultimately overrode the veto, and the Department of Education will receive the support for arts education.

BILLS AFFECTING COUNCILS, COMMISSIONS AND CULTURAL TRUSTS

Iowa

[S.S.B. 1139—Iowa Next Commission](#)

Status: In committee at adjournment

Summary: This study bill proposed the creation of the Iowa Next Commission, a \$26 million program to invest in local and regional quality of life projects. The new grant-awarding commission would have consisted of the seven public members as well as the directors of the Department of Cultural Affairs, Economic Development Authority, Department of Natural Resources and Department of Transportation. After a number of iterations and negotiations, the bill stalled in committee. It is possible that the Iowa Next idea will be pursued in the next legislative session.

New Hampshire

[H.B. 279—Commission to Study Economic Impact of Arts and Culture](#)

Status: Enacted

Summary: This bill, signed in June, creates a 14-member commission to study the economic impact of arts and culture in New Hampshire. The commission also will recommend ways for the state to enhance and expand its cultural sector. The commission will consult with artists, arts groups and organizations, and it may look at activities in other states. The commission is to report its findings and any recommendations for legislation by November 2016.

New Jersey

[A. 3962/S. 2793—Adding Members to the Council on the Arts](#)

Status: Senate passed

Summary: This bill would increase the size of the New Jersey State Council on the Arts from 17 to 21 public members. The governor would be responsible for appointing the four additional members. Each new member would have to be a resident of a county not currently represented by another member of the Council.

Oregon

[S.B. 441—Increasing Oregon Cultural Trust Grant Making](#)

Status: Enacted

Summary: Signed in July, this bill amends state law to increase grant making by the Oregon Cultural Trust, a state-created entity that supports the arts, humanities and heritage. The trust may now

Resolutions

Many state legislatures pass resolutions expressing opinions about a variety of issues, including the arts. Resolutions typically are not binding vehicles for regulation or appropriations, but they can be useful by indicating the legislative climate, serving as rallying points for advocates and commending accomplishments in the arts.

Recent examples of resolutions include one in [Vermont](#) declaring 2015 to be the "Year of the Arts," one in [California](#) proclaiming an "Arts Education Month," one in [Illinois](#) urging the governor to remember the importance of the arts throughout the budgeting process, one in [Alabama](#) honoring the Alabama Center for the Arts for its contribution to the arts and to the state, and several in Nebraska congratulating high school students for winning an arts award.

distribute between 50% and 60% of its corpus through grant making. Previously, it could award only up to 42% of it. The new law also increases the trust's administrative budget for its arts program, enabling it to create an additional full-time staff position. Finally, it revises how grant funding is allocated to its "core partner agencies" and to other organizations via its Cultural Development Grant and Community Cultural Participation Grant programs.

Utah

[S.B. 194—Creating the Arts and Business Alliance](#)

Status: Enacted

Summary: Signed in March by Governor Gary Herbert, this bill creates a new entity within the Utah Division of Arts & Museums called the Arts and Business Alliance. The seven-member Alliance is to recommend policies, priorities and objectives to the Division, encourage the development of the arts in the state, and support the arts efforts of nonprofit organizations and state and local government agencies. The enacted legislation also creates a restricted account in the general fund, to be replenished by appropriations and private donations, which the Division may use to make grants in accordance with recommendations of the Alliance. In addition, there is a one-time \$75,000 increase for museums grants associated with this bill, although an amended tourism-tax funding mechanism that was originally part of the bill did not make it into the final version.

FOR MORE INFORMATION

For more information, contact NASAA Research Director [Ryan Stubbs](#).

The National Assembly of State Arts Agencies (NASAA) is the membership organization that serves the nation's state arts agencies. NASAA helps state arts agencies fulfill their many citizen service roles by providing knowledge services, representation and leadership programs that strengthen the state arts agency community. NASAA also serves as a clearinghouse for data and research about public funding and the arts. For more information on the work of state arts agencies, call 202-347-6352 or visit www.nasaa-arts.org.



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