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ABSTRACT

This report summarized briefly some of the federal legislation now pending or recently enacted that has implications for library service and for librarians. It covers the first six months of the first session of the 94th Congress, which convened January 14, 1975. The first section of the report discusses appropriations bills, without which funds would not be available to carry on federal programs such as the Library Services and Construction Act. The appropriations bills now being considered in Congress are those providing funds for fiscal year 1976. Some programs such as the Elementary and Secondary Education Act's new Title IV-B Libraries and Learning Resources, receive their funding a year in advance, so that their fiscal year 1977 appropriations are included in the education appropriations bill now before Congress. The second section of the report deals with legislative bills and related matters which Congress must pass to establish new programs or to extend existing ones. Attached to the end of the report are: 1) a table of funds giving details on the appropriation of funds for federal library and related programs and 2) a status-of-legislation chart summing up the status of a few bills with library-related implications. (Author)

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office**

January - June 1975

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LEGISLATIVE REPORT OF THE ALA WASHINGTON OFFICE

94th CONGRESS, 1st SESSION

(January - June 1975)

This report summarizes briefly some of the federal legislation now pending or recently enacted which has implications for library service and for librarians. It covers the first six months of the first session of the 94th Congress which convened January 14, 1975.

The first section of the report discusses appropriations bills, without which funds would not be available to carry on federal programs such as the Library Services and Construction Act. The appropriations bills now being considered in Congress are those providing funds for fiscal year 1976, which begins on July 1, 1975. Fiscal year 1976, in effect, will be a 15-month year because the federal fiscal year is shifting from a July 1-June 30 cycle to an October 1-September 30 cycle beginning with FY 1977. That is, FY 1977 will begin on October 1, 1976.

Some programs such as the Elementary and Secondary Education Act's new title IV-B Libraries and Learning Resources, receive their funding a year in advance, which means that FY 1977 appropriations for ESEA IV-B are included in the FY 1976 education appropriations bill now before Congress.

The second section of the report deals with legislative bills and related matters. These are the "authorization bills" that Congress must pass to establish new programs or extend existing ones that would otherwise expire. For example, the Higher Education Act, including its title II library programs, is scheduled to expire in FY 1976. Congress must therefore pass an authorization bill to extend it.

Attached at the end of the report are: (1) a table of funds giving details on the appropriation of funds for federal library and related programs and (2) a status-of-legislation chart summing up the status of a few bills with library-related implications.

American Library Association, Washington Office, June 26, 1975

INDEX

Appropriations.....Pg. 1	Japan-U.S. Friendship Act.....Pg. 17
Arts & Humanities..... 4	LSCA Regulations.....17
Civil Rights..... 5	National Institute of Education.....18
Community Development Grants..... 8	Postal Rates.....18
Congressional Budget Process..... 9	Privacy.....19
Copyright Commission.....10	Public Broadcasting.....20
Copyright Revision.....10	Public Service Jobs.....20
Criminal Code Revision.....12	Public Works.....21
ESEA Title IV-B.....12	Revenue Sharing.....22
Folklife Center in LC.....14	Taxation.....23
Handicapped.....15	WHCOLIS AND NCLIS24
Higher Education Act.....16	ATTACHMENTS: Funding Table
Intergovernmental Relations.....16	Status of Legislation Chart

Appropriations

1. Education and Library Programs

FY 1976 funding for the Library Services and Construction Act, and for the Higher Education Act Title II library programs is provided this year in a separate education appropriations bill (HR 5901) which passed the House by voice vote on April 16, was reported from the Senate Appropriations Committee on June 16 (S.Rept. 94-198) and is expected to come to the Senate floor for a vote either just before or after the congressional July 4 recess. Forward funding for FY 1977 is also included in this bill for the Adult Education Act and for a number of elementary and secondary education programs including School Libraries and Learning Resources (ESEA title IV-B). Attached to this report is a table providing more details on funding levels for library and related programs.

The intent of the House Appropriations Committee in splitting education appropriations off from the main Labor-HEW appropriations bill was at least in part to expedite their enactment into law so that schools would know well in advance of the academic year what federal funding would be available. But the education appropriations bill got bogged down in the congressional process, and the new fiscal year begins July 1 without FY 1976 library and education appropriations enacted into law.

An interim funding bill, the continuing resolution (HJ Res. 499) was cleared by Congress for the White House on June 20. It is awaiting President Ford's signature as this report goes to press on June 25. This year's continuing resolution provides that when an appropriations bill has passed both House and Senate as of July 1, 1975, but has not cleared conference, the programs shall be continued at whichever is less, the amount in the Senate bill or that in the House bill. If the bill has passed only one House as of July 1, the rate for operations shall not exceed the current rate or the rate permitted in the House bill, whichever is lower. Where the applicable bill has not been passed by either House as of July 1, the rate for operations for continuing projects shall not exceed the current rate or the rate provided for in the budget estimate, whichever is lower.

The Senate Appropriations Committee attempted to deal with the problem of impoundment under the continuing resolution by inserting language in the report (S. Rept. 94-201) accompanying HJ Res. 499 directing "that the rates of operation for programs and activities under the continuing resolution be interpreted as mandatory spending levels, just as would be the case in a regular appropriations bill. The Committee and the Congress will continue to entertain rescission and deferral messages, should the Administration have proposals to spend at rates of operation below the levels specified in the continuing resolution."

Wording in the House report accompanying HJ Res. 499 (H.Rept. 94-289) is just as explicit in the opposite direction: "It is essential that officials responsible for administering programs during the interim period covered by the resolution take only the limited action necessary for orderly continuation of projects and activities, preserving to the maximum extent possible the flexibility of Congress in arriving at final decisions. Accordingly, the rates of operation for programs and activities under the resolution are to be interpreted as ceilings and not as mandatory spending levels."

There is no conference report on the continuing resolution for the House agreed to accept the Senate version, although the chairman of the House Appropriations Committee, Rep. George Mahon (D-Tex.) stated his opinion that "the levels of continuing authority provided are ceilings. It is not mandatory. That has been the longstanding philosophy of such authority contained in continuing resolutions." Whether or not the Administration will attempt to impound library funds under the continuing resolution remains to be seen, but it would represent a radical departure from recent years' experience if no such impoundment is attempted.

A comparison of the library provisions of the House-passed bill, the bill as reported from the Senate Appropriations Committee (but not yet voted upon by the Senate) and FY 1975 funding levels follows:

Program	FY 1975	HR 5901 House	HR 5901 Senate
LSCA title I.	\$49,155,000	\$49,155,000	\$49,155,000
title II	-0-	-0-	-0-
title III	2,594,000	2,594,000	2,594,000
title IV	-0-	-0-	-0-
<u>Total LSCA</u>	<u>51,749,000</u>	<u>51,749,000</u>	<u>51,749,000</u>
ESEA title IV-B	1/	147,330,000	147,330,000
HEA title II-A	9,975,000	9,975,000	9,975,000
title II-B	3,000,000 ^{2/}	-0-	3,000,000
title VI	7,500,000	-0-	15,000,000
White House Conf. on Lib. & Inf. Services	-0-	-0-	3,500,000

- 1/ ESEA IV-B was not in existence in FY 1975. It was forward-funded in FY 1975 supplemental to begin in FY 1976. For FY 1976, \$137,330,000 was appropriated with half for ESEA IV-B and half for the categorical programs it consolidates (ESEA II, part of ESEA III, and NDEA III).
- 2/ Of this amount, \$2,000,000 for training, and \$1,000,000 for research and demonstrations.

It is thanks to the efforts of three Representatives that the FY 1977 appropriation for ESEA IV-B was increased \$10 million over its FY 1976 level. An amendment offered by Reps. Edward R. Roybal of California, David R. Obey of Wisconsin, and Louis Stokes of Ohio, during the April 16 floor debate on HR 5901 in the House, added a total of \$487.5 million for 13 different education and library programs over the amount recommended by the House Appropriations Committee. Included in the Roybal-Obey-Stokes amendment in addition to the \$10 million for ESEA IV-B was \$5 million for title I of the Library Services and Construction Act. Without adoption of this amendment the House bill would have provided only \$44,155,000 for title I, a cut of \$5 million below FY 1975 levels. The vote on the Roybal-Obey-Stokes amendment was 259-143, with 30 members not voting.

And it is thanks to Senator Mike Mansfield (D-Mont.), the Senate Majority Leader, that \$3.5 million is included in the Senate Appropriations Committee bill for the White House Conference on Library and Information Services authorized by PL 93-568. No funds for the White House Conference are included in the House version of HR 5901.

2. Transitional Quarter Appropriations for Library Programs

The House-passed education appropriations bill (HR 5901) provides no funding for the transitional quarter (July - September 1976) for any of the library programs administered by the U.S. Office of Education, nor did the administration request library funding for this 3-month period. While transition quarter funding for some education programs is provided in HR 5901, it is not provided for many other programs, and it is possible that Congress may consider appropriating such funds later in a supplemental appropriations bill.

In addition to providing appropriations for the 3-month transition period, certain authorizations also must be extended, so that none of the numerous statutes on the books which authorize appropriations in one way or another fail for technical insufficiency or are inadvertently overlooked. To deal with this problem, the House Committee on Government Operations reported HR 6692 on June 11, a measure that will, among other things, continue for 3 months authorizations that expire on June 30, 1976. The bill was passed June 16, and is now pending in the Senate Government Operations committee. Sen. Charles Percy (R-Ill.), the ranking Republican member of the Government Operations Committee has introduced the companion bill in the Senate (S. 1874).

3. Library of Congress

The House of Representatives passed the FY 1976 Legislative Branch Appropriations Bill (HR 6950) on May 21 by voice vote. The Library would receive \$115,134,800 for FY 1976 according to the House-passed bill which the Senate has yet to act upon. This is \$4,580,300 less than the Library requested, with the cuts coming primarily in the area of salaries and expenses.

LC had requested 140 new positions, of which only 46 were granted. The Congressional Research Service asked for 157 new positions, of which only 50 were allowed by the House. The Appropriations Committee in its report (H.Rept. 94-208) stated its concern over the accelerated growth in the staff of CRS, the Office of Technology Assessment, and the General Accounting Office, "which appears to far exceed what was contemplated when legislation establishing and expanding the responsibilities and duties of these agencies was under consideration." The Committee also noted that the new House Commission on Information and Facilities is charged with conducting a thorough and complete study of "House resources for information, including the Congressional Research Service, the General Accounting Office, and the Office of Technology Assessment, and the organizational framework that makes them effective or ineffective." The Committee anticipates that "the report of the Commission will be of great assistance in determining future needs of these agencies."

The House bill allows \$15,813,000 for books for the blind and physically handicapped, \$2,014,100 to maintain the special foreign currency program at this year's level, \$3,136,000 for initial outfitting of the James Madison Memorial Library Building, and \$9,653,391 for the National Program for Acquisitions and Cataloging, to continue the program at the FY 1975 level. The bill also provides funding for the Library of Congress at the level of \$28,769,000 for the transitional quarter (July - September 1976).

4. Government Printing Office

The House-passed legislative branch appropriations bill for FY 1976 (HR 6950) provides \$36,765,700 for the Office of the Superintendent of Documents in FY 1976, and \$108,500,000 for the Government Printing Office for printing and binding. The Appropriations Committee registered its concern over the increasing cost of congressional printing and binding, and inserted language in the bill restricting binding by congressional committees for distribution to individual committee members on a request basis only. In the past this binding has been done automatically for committee members. GPO would receive \$36,316,400 for the transitional quarter under the House-passed bill. The Senate Appropriations Committee has yet to act upon HR 6950 as this report goes to press. June 26.

Arts and Humanities

Sen. Claiborne Pell (D-RI), chairman of the Senate Special Subcommittee on Arts and Humanities, introduced on May 21 the Arts, Humanities, and Cultural Affairs Act of 1975 (S.1800). Title I of this measure would extend through FY 1980 the authorizations for the National Endowments for the Arts and the Humanities (which would otherwise expire in FY 1976), with two substantive amendments to the basic authorizing legislation. The first amendment would provide a set-aside of 4 percent of authorized program funds for the support of the American Film Institute (AFI), and the second would mandate the creation of state humanities councils, which have until now been voluntary. Sen Pell noted that the two amendments are proposed for discussion purposes and it "could well be found in the hearings that no amendments are needed or that the idea established in these proposals can be achieved in another manner."

The AFI amendment is somewhat controversial. Legislation was proposed last year (but defeated in the House on December 16 by a vote of 123 yeas to 264 nays) to create an autonomous American Film Institute outside the National Endowment for the Arts. According to Sen. Pell, the idea of a percentage set-aside for the AFI "is a middle-ground route. It keeps the American Film Institute under the umbrella of the endowment, but allows the American Film Institute a certain amount of independence and latitude in setting its own course of action." But Sen. Javits of New York thinks it may set a bad precedent: "I believe it will tend to begin a process of fragmentation of the Endowment and could lead to lessening of the Endowment's overall impact of advocacy for the Arts."

Funds authorized for the two Endowments would not be increased by S.1800, but would be continued at FY 1976 levels (\$113,500,000 for each) in FY 1977 and FY 1978, and "such sums as may be necessary" would be authorized for FY 1979 and 1980.

Title II of the bill authorizes a new Museum Services Act which would establish within the Department of Health, Education, and Welfare, an Institute for the Improvement of Museum Services. The Institute would receive annual authorizations of \$30 million through FY 1978 to make grants to museums to increase and improve museum services. Museum is defined as "a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns and utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis."

Title II would also establish an Arts and Artifacts Indemnity Act, a federal program of indemnification to cover exhibitions which are brought to the United States as part of our country's international relations. As Sen. Pell described this provision: "It is not the purpose of the bill to reimburse museums for a chipped frame or glass, but I do believe there is a federal responsibility to reimburse, let us say, England, if works of art on loan from that country during the Bicentennial were damaged through accident or due to actions of a political extremist. There is precedent for such a program. The Federal Government has pledged its faith and credit to indemnify both the exhibition of the artifacts from the People's Republic of China and the current exhibition of Scythian gold at the Metropolitan Museum of Art in New York City."

The same bill has been introduced in the House by Rep. John Brademas (D-Ind.), chairman of the Select Subcommittee on Education which has jurisdiction over the Endowments. A hearing was held jointly by the Pell and Brademas subcommittees on June 4 to consider the proposed Arts and Artifacts Indemnity Act. Hearings have not yet been held on the other parts of the bill, or on the administration's arts and humanities extension bill, which was introduced by Rep. Alphonzo Bell (R-Cal.) on May 22 (HR 7490) and by Sen. Jacob Javits (R-NY) and Sen. Pell the same day (S. 1809). The administration bill would extend authorizations for the Endowments through FY 1979, with annual authorizations at \$113,500,000 for each endowment. It does not contain any of the museum-related provisions of the Pell-Brademas measure.

Civil Rights

1. HEW Civil Rights Enforcement On June 4, 1975, HEW published in the Federal Register (pp. 24148-59) for public comment a proposed consolidated procedural regulation setting forth new procedures for implementing the Department's statutory civil rights responsibilities. As described by HEW Secretary Weinberger,

"The essence of the proposal is to articulate the Department's role in civil rights enforcement in terms of a methodical approach geared toward identifying and eliminating systematic discrimination rather than in terms of a reactive or complaint-oriented approach geared toward securing individual relief for persons claiming discrimination.... complaints received by the Department over the last few years have not been broadly representative of the spectrum of the Department's civil rights enforcement program, since generally, in any given time period, more complaints involving sex discrimination in higher education academic employment have been received than on any other subject. Departmental enforcement policy must attempt to take into account this skew in complaints received and the factors which contribute to it so as to ensure that whole areas of non-compliance are not ignored merely because few, if any, complaints have been received. This problem is, perhaps, particularly acute in the area of national origin discrimination where potential complainants speak and write English with difficulty."

The proposed procedural regulation should be carefully reviewed by librarians and all concerned with equal employment opportunities, prohibition of sex discrimination, and affirmative action, for it is a controversial proposal in the eyes of many. Public comment is solicited from interested citizens until July 21, 1975, and should be sent to the Director, Office for Civil Rights, Department of Health, Education, and Welfare, P.O. Box 24079, Washington, D.C. 20024.

Generally, the purpose of the new proposal is to establish a uniform procedure for enforcement of the various nondiscrimination requirements which are applicable to programs administered by the Department and for which responsibility has been delegated to the Director of HEW's Office for Civil Rights. The proposed enforcement procedures would apply to the Department's enforcement of:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination in any federally assisted program or activity on the ground of race, color, or national origin;

Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education programs and activities. (Title IX enacted in 1972 has yet to be implemented pending the development of regulations now scheduled to take effect July 21, 1975 unless disapproved by Congress.);

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in any federally assisted program or activity;

Section 799A of the Public Health Service Act, which concerns sex discrimination in admissions to medical and related health sciences schools.

Also administered by HEW's Office for Civil Rights and to be covered by the proposed procedural regulation are certain alcohol and drug abuse statutes, but not Executive Order 11246 as amended. The Department of Labor (not HEW) is responsible for the development of regulations implementing this Order, which prohibits discrimination on the basis of race, color, or national origin, religion or sex, by government contractors or by contractors performing under federally assisted construction contracts. EO 11246 is generally administered by the Department of Labor's Office of Federal Contract Compliance, but compliance responsibilities with respect to educational institutions, medical and health-related institutions, social service facilities, certain non-profit organizations, and state and local public agencies holding federal contracts and subcontracts have been delegated to HEW.

2. Title IX "Yesterday was the third anniversary of the congressional enactment of title IX of the Education Amendments of 1972 -- landmark legislation banning sex discrimination in all federally assisted education programs," Senator Birch Bayh (D-Ind.), a strong proponent of title IX, told his colleagues in the Senate on June 24. "After 3 years of study and evaluation, the Department of Health, Education, and Welfare released final regulations implementing this legislation on June 3, 1975."

Title IX (PL 92-318) provides that "no person in the United States shall on the basis of a sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." It forbids sex discrimination in any educational institution receiving federal assistance, including the nation's 16,000 public school systems and nearly 2,700 postsecondary institutions. Both admissions and employment are covered.

A year ago, on June 24, 1974, the Department of Health, Education, and Welfare published in the Federal Register (pp. 22227-40) a proposed regulation to implement title IX, with comments, suggestions, or objections solicited from the public. October 15, 1974 was set as the deadline for submission of comments on the draft

regulation. (In July 1974, the ALA Washington Office notified state library associations, state library agencies, state school media officers, members of ALA Council and Executive Board, and ALA divisions of the proposed regulation, the deadline for receipt of comments, and of regional briefings then being held on the subject by HEW).

Nearly 10,000 comments were received by HEW, and it was not until June 4, 1975 that the final regulations on title IX were published in the Federal Register (pp. 24128-45), nearly three years after it was enacted by Congress. The regulations which were approved by President Ford on May 27, will take effect July 21, 1975, unless Congress determines they are inconsistent with the title IX Act, in which case it can pass a concurrent resolution disapproving them, HEW would then be required to redraft the regulations. If such a concurrent resolution is not passed by July 21, the title IX regulations as published in the June 4 Federal Register become effective. (Congressional authority to review regulations promulgated by HEW was created in the Education Amendments of 1974 (PL 93-380), which amended Sec. 431 of the General Education Provisions Act to allow this procedure. Its constitutionality has been questioned by some.)

Because considerable controversy has been generated by the title IX regulations -- particularly over their coverage of college athletics.-- the House Subcommittee on Postsecondary Education began hearings on the regulations in mid-June, and the Senate Subcommittee on Education has indicated that it will review the regulations also before the July 21 deadline.

Some Members of Congress believe HEW has exceeded its authority in drafting the title IX regulations, but others, like Senator Bayh, one of the sponsors of the title IX legislation in 1972, do not believe the regulations are contrary to the intent of Congress. Sen. Bayh testified before the O'Hara subcommittee to that effect: "As the prime sponsor of title IX, " Sen. Bayh said, "I feel the title IX regulations are consistent with both the spirit and intent of the Congress...." And he went on to say:

"While the regulations are disappointing in some respects, on balance the regulations do make significant strides in mandating equality for women. The heart of these guidelines is the prohibition or the thwarting of equal opportunity for female students and teachers at any educational level. The title IX guidelines, as the Congress mandated, call for equality in admissions, financial aid, course offerings, career counseling, and in the case of teachers and other educational personnel, employment, pay and promotions. We have waited three full years already for implementing regulations. Therefore I am urging the Congress to adopt the regulations without any further delay."

NB: The title IX regulations do not cover sex-stereotyping in textbooks and curricular materials. As HEW Secretary Weinberger said, "This produced a good deal of public comment. Nonetheless, the administration remains convinced that this position is correct, and the final regulation explicitly affirms this position... In my opinion, it would be both highly questionable from a constitutional standpoint, and wholly inappropriate for the federal government to move into this area and I do not think there is any evidence that the Congress desired such a result."

3. EEO Requirements for Higher Education To become effective July 1, 1975 are regulations promulgated by the Equal Employment Opportunity Commission (EEOC), under title VII of the Civil Rights Act, regarding reporting and recordkeeping requirements for public and private institutions of higher education. A reporting form called "Higher Education Staff Information Report EEO-6," instructions on how to fill it out and

the text of the new regulations were published in the June 12 Federal Register (pp. 25188-96).. Title VII prohibits discrimination on the basis of race, color, religion, sex or national origin in all employment practices, and covers private employers, employment agencies, unions, educational institutions, and state and local governments as well as the competitive federal civil service.

The new regulations require that on or before November 30, 1975, and biennially thereafter, every public and private institution of higher education having 15 or more employees shall file copies of the report with EEOC. The form is intended to meet most of the basic compliance reporting needs of various federal government agencies that have responsibility with respect to equal employment opportunity (including HEW's Office for Civil Rights), and EEOC hopes it will serve also as a valuable tool for use by the institutions in evaluating their own programs for insuring equal employment opportunity.

In general, the new reporting form requires institutions to report numbers of employees by sex and race/ethnic designation according to various categories such as executive and administrative, faculty, professional nonfaculty, or clerical and secretarial. An employer may acquire the race/ethnic information "either by visual surveys of the work force, or from post-employment records." EEOC notes that these methods are legal in all jurisdictions and under all federal and state laws. "State laws prohibiting inquiries and recordkeeping as to race, etc., relate only to applicants for jobs, not to employees."

4. House Hearings on Civil Rights Enforcement The House Subcommittee on Equal Opportunities, chaired by Rep. Augustus Hawkins (D-Cal.) began a series of hearings on federal enforcement of title VII of the Civil Rights Act as well as Executive Orders 11246 and 11375 on June 19. Questions to be examined by the subcommittee during the course of the hearings will include the following: How effective have the executive orders and title VII been in eliminating employment discrimination? What kind of a job have the agencies charged with enforcement of these laws been doing? How much trained labor force is our nation losing because of lack of enforcement of these laws? Does the individual who has suffered discrimination or who may so suffer in the future receive protection and relief from the federal equal employment opportunity laws? Are affirmative action policies and programs being implemented to bring about full utilization of women and minorities?

John Dunlop, Secretary of Labor, testified the first day of the hearings, discussing EEO responsibilities of the Department of Labor which include EO 11246, the Equal Pay Act, the Age Discrimination in Employment Act, and others. Other executive departments will be testifying as well as the hearings continue.

Community Development Block Grants

Revised regulations governing the community development block grant program authorized by the Housing and Community Development Act of 1974 (PL 93-383) were published in the June 9, 1975 Federal Register, beginning on p.24692. The regulations have been amended by the Department of Housing and Urban Development (HUD) to state that neighborhood libraries are eligible for funding, and in the case of communities of under 10,000 population, central facilities are eligible.

This marks a reversal of HUD's earlier position that libraries were "ineligible activities" unless "part of a multipurpose neighborhood facilities project." The revised regulations stipulate that "single purpose" neighborhood facilities are eligible as are "multipurpose" neighborhood facilities.

The community development block grant program consolidates and replaces a number of former categorical programs like the neighborhood development, urban renewal, water-sewer, and open space programs administered by HUD. The primary objective of the block grant program is the "development of viable urban communities, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income." Funding decisions under the block grant program are made by local governing officials.

Congressional Budget Process

In fiscal year 1977, which begins October 1, 1976, the new congressional budget process established by the Congressional Budget and Impoundment Control Act of 1974 (PL 93-344) becomes mandatory. But Congress has agreed to put certain provisions of the budget act into effect this year. The House and Senate Budget Committees (chaired respectively by Rep. Brock Adams, D-Wash.), and Sen. Edmund Muskie, (D-Me.) reported to the House and Senate on March 3 (H.Rept. 94-25) and March 5 (S.Rept. 94-27) the following implementation plan which is now in effect for fiscal year 1976: (1) by April 15, 1975, both budget committees are to report first concurrent resolution on the budget, setting spending targets and estimated revenues for FY 1976; (2) by May 15 Congress is to adopt the first resolution; (3) by September 15, the budget committees report, and Congress is to complete action on second budget resolution; and (4) by September 25, Congress is to complete reconciliation process to the extent necessary.

Both House and Senate Budget Committees reported out the "first concurrent resolution" within the deadline: the House on April 14 (H.Con. Res. 218 and H.Rept. 94-145), and the Senate on April 15 (S.Con.Res. 32 and S.Rept. 94-77). Then on May 14, agreement was reached on spending and revenue "targets" (not ceilings) with the adoption by both House and Senate of the conference report (H.Rept.94-198) on the first concurrent resolution on the FY 1976 budget. H.Con.Res. 218 as amended was not presented to the President for signing because it is not a legislative proposal, but an expression of intent on the part of Congress to keep FY 1976 spending and revenues within certain limits.

The resolution sets the "appropriate level" of total budget outlays at \$367 billion and the appropriate level of total new budget authority at \$395.8 billion. It does not provide spending targets for individual programs, but only in aggregate. The conference report provides some additional details in terms of broad functional budget categories. For example, for the budget category of "education, manpower, and social services," which includes library programs with many others, budget authority is set at \$19 billion and outlays at \$19.85 billion. "These figures assume," the report states; "that all programs in this function can be funded at least at their fiscal year 1975 funding level, that regular on-going programs be increased, and that the number of public service employment jobs also be increased."

Come September Congress will attempt to reconcile its spending targets with its appropriations actions.

Copyright Commission

Although the Library of Congress requested \$337,000 in FY 1976 funding to start up the National Commission on New Technological Uses of Copyrighted Works authorized by PL 93-573 enacted December 31, 1974, the House Appropriations Committee has deferred action on the requested appropriation "until such time as the members of the Commission have been appointed and a program has been developed." Twelve of the 13 Commission members are to be appointed by the President; the other member is to be the Librarian of Congress. The Senate Appropriations Committee may include funding for the Commission in its version of the Legislative Branch Appropriations Bill (HR 6950) if President Ford makes his appointments without additional delay.

The purpose of the Commission is to study and make data on: "(1) the reproduction and use of copyrighted works of authorship (A) in conjunction with automatic systems capable of storing, processing, retrieving, and transferring information, and (B) by various forms of machine reproduction, not including reproduction by or at the request of instructors for use in face-to-face teaching activities; and (2) the creation of new works by the application or intervention of such automatic systems or machine reproduction." The Commission is directed to "make recommendations as to such changes in copyright law or procedures that may be necessary to assure for such purposes access to copyrighted works, and to provide recognition of the rights of copyright owners."

Copyright Revision

Hearings on general copyright revision began May 7 in the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, chaired by Rep. Robert Kastenmeier (D-Wis.). Witnesses from the federal government led off, including John Lorenz, Acting Librarian of Congress; Barbara Ringer, Register of Copyrights; and representatives from the Departments of Justice, Commerce, and State.

Representatives of the library community were invited to appear before the subcommittee on May 14 to discuss library photocopying. With only 30 minutes allotted for the library presentation, six national library associations joined forces to present a unified statement to the subcommittee. Representing American Association of Law Librarians, American Library Association, Association of Research Libraries, Medical Library Association, Music Library Association, and Special Libraries Association, Edmon Low, chairman of ALA's copyright subcommittee, made the presentation, and a panel of witnesses was on hand to field questions from the subcommittee.

In addition to Mr. Low, the panel consisted of Julius J. Marke, chairman of AALL's copyright committee; John P. McDonald, ARL executive director; Joan Titley Adams, chairman of the Medical Library Association's copyright committee; Susan Sommer, chairman of the Music Library Association's copyright committee; Frank McKenna, executive director of SLA; James A. Sharaf, counsel for the Harvard University Library; William D. North, ALA counsel; and Philip B. Brown, ARL counsel. Although the subject of the hearing was limited to library photocopying, the librarians noted that other provisions of the bill are also of concern and may be the subject of further statements by the individual library associations.

Following the library presentation, the publishers and authors presented their statements: Townsend Hoopes and Charles Lieb representing the Association of American Publishers; Robert W. Cairns on behalf of the American Chemical Society; and Irwin Karp, counsel for the Authors League of America. The publishers and authors supported the library photocopying provisions of the bill while the librarians urged the deletion of three subsections (sec. 108 (g) (1), 108 (g) (2), and 108 (h)). "Today's hearings are the first opportunity we have had to express publicly our very deep concern," the library associations told the subcommittee, with respect to these sections all of which were added to the Senate Judiciary Committee after the conclusion of copyright hearings in 1973.

Section 108 (g) (2) which prohibits "systematic reproduction" was treated in some detail in the library statement. "The question immediately arises," the library associations pointed out, "as to what constitutes systematic reproduction. To the extent that we are able to puzzle it out, it appears to have been aimed at practices of the kind which were upheld as fair use by the Court of Claims in the Williams & Wilkins case." This section must be stricken from the bill, the librarians told the subcommittee, in order that libraries may be permitted to continue the long established library service of providing a single photocopy of a single article or excerpt from a copyrighted periodical or book for a patron's use without incurring liability for copyright royalties.

Additional copyright hearings on other issues have been scheduled throughout June, in July, and in September. Librarians are urged to send for the copyright revision bill (HR 2223) -- write your Representative for a copy or write to the House Document Room, U.S. Capitol, Washington, D.C. 20515 -- and to study not only section 107 (fair use) and 108 (reproduction by libraries and archives), but other provisions of the bill as well. In addition, if you would like a copy of the library associations' testimony on library photocopying, send a self-addressed envelope with 20¢ postage to the ALA Washington Office, 110 Maryland Ave. NE, Washington, D.C. 20002.

On the Senate side, the general copyright revision bill the Senate passed in September 1974 (S. 1361, 93rd Congress), was introduced as S. 22 during the second day of the 94th Congress (January 15, 1975) by the chairman of the Senate Judiciary Committee's Subcommittee on Patents, Trademarks and Copyrights, Sen. John McClellan (D-Ark.). The Senate bill was marked up by the subcommittee on June 13 for full committee action, which will probably not occur until sometime after the congressional August recess.

Copyright - Williams & Wilkins

On February 25, 1975, the Supreme Court announced that it was equally divided in the case of

Williams & Wilkins Co. v. the United States, with Justice Blackmun taking no part in the decision. With no indication of how the Justices voted and no indication of why Blackmun took no part, the complete text of the Court's one-ling statement is: "The judgment is affirmed by an equally divided Court."

When the Supreme Court is so divided, the judgment of the lower court is affirmed, in this case the November 27, 1973 judgment of the U.S. Court of Claims, which ruled in a 4-3 decision that making single photocopies of journal articles by the National Library of Medicine and the National Institutes of Health staff library does not violate copyright laws. While the terms of this decision are narrow, the implications are significant from the standpoint of the protection of the public interest in the access to information.

Criminal Code Revision

The controversial Criminal Justice Reform Act of 1975 (S.1) was introduced on January 15, 1975 by Sen. John McClellan. It represents to some extent a revision of a bill by the same number introduced in the 93rd Congress. On May 1, ALA submitted testimony to the Senate Judiciary Committee's Subcommittee on Criminal Laws and Procedures, just as it did in the last Congress, calling attention to several provisions of S.1 which violate intellectual freedom. The statement was prepared by ALA's Office for Intellectual Freedom.

President Ford, in a June 19 message to Congress on the subject of crime (H.Doc. 94-191), urged Congress "to pass the kind of comprehensive code reform embodied in the Criminal Justice Reform Act." He did not endorse all the provisions of S.1, noting that "some of the proposals in this Act have stirred controversy and will undoubtedly precipitate further debate. For instance, concern has been expressed that certain provisions of the bill designed to protect classified information could adversely affect freedom of the press." This was one of ALA's grave concerns as was the section of S. 1 dealing with obscenity, concerning which ALA urged Congress "to reject all federal legislation -- if there is to be any -- that does not mandate such basic safeguards as prior civil proceedings, or that does not allow as an affirmative defense the fact that the dissemination occurred in a bona fide nonprofit library established for the educational, research, and recreational needs of its users."

The Senate Subcommittee has not yet scheduled markup of S.1. On the House side, some hearings on criminal code revision were held in the 93rd Congress, but there has been no action on the matter this year.

ESEA Title IV-B

Draft regulations to implement Libraries and Learning Resources, otherwise known as title IV-B of the Elementary and Secondary Education Act, were published by the Office of Education in the March 12 Federal Register, (pp. 11686-95), and should be read with care by all school library media specialists. Comments on the draft regulations were sought by the Office of Education (with a deadline of April 11), and following consideration of all comments received, USOE will publish the regulations again in the Federal Register, perhaps early in July.

ESEA title IV-B, established by the Education Amendments of 1974 (PL 93-380) consolidates into one program three individual categorical programs: ESEA title I (school library resources), part of ESEA III (guidance, testing and counseling), and NDEA III (educational equipment and minor remodeling).

It is important that as many school librarians as possible see the regulations and become familiar with the provisions of the new ESEA title IV-B program. The Federal Register, published 5 days a week (except holidays) by the federal government, is generally available in medium and large public libraries, in college or university libraries, and in depository libraries. It is also available for sale (individual issues 75¢) from the Government Printing Office or its bookstores.

Libraries and Learning Resources is a state-based program, with local education agencies having complete discretion as to how they spend their share of the ESEA IV-B funds. The funds can be spent not only for school library resources, but also for educational equipment or minor remodeling, guidance, testing, or counseling. The program is brand-new and it is unclear to what extent school library service nationwide will benefit.

Competition for the funds at the local level will play a key role in the new program. School library/media specialists must, therefore, be familiar with how ESEA title IV-B works -- and it may work slightly differently in different states. This, therefore, is what should be done now: (1) read the draft regulations cited above, and (2) find out how your own state is organizing at the state level to administer the new program. Each state is required to have an advisory council to evaluate the effectiveness of ESEA IV-B and to plan for its administration throughout the state. Who are the members of your state's ESEA IV-B advisory council? Is one of the members knowledgeable about school library media service? Take the time now to learn how your state is organizing for ESEA title IV-B.

The more you know about the program, the more chance there is that school library service in your community will benefit from this new form of educational assistance from the federal government. ALA opposed enactment of this new consolidated form of library and related educational assistance, preferring instead the school library program authorized since 1965 by title II of the Elementary and Secondary Education Act. However, there was considerable pressure from the administration and from chief state school officers, school administrators and others to try the consolidation approach and Congress voted to do it.

It should be emphasized, however, that Members of Congress are interested in the new ESEA title IV program; and they will be watching the effects of consolidation. Their hope is that the new Libraries and Learning Resources program will simplify paperwork and eliminate red tape at the state and local level. In congressional testimony, however, ALA and other groups have pointed out the dangers inherent in consolidation. For example, there is likely to be increased political infighting at the state and local level as guidance counselors may be put in the position of fighting for their own salaries while librarians are fighting for resource funds and both must come out of the same pot. There is also the danger that when no funds are specifically earmarked for libraries at the national level, then perhaps no funds will be spent for that purpose at the local level.

However, the program has been enacted, \$137,330,000 has been appropriated by Congress to phase it in during FY 1976, with half the appropriation to go for the individual categorical programs and the other half for the consolidation. And \$147,330,000 is provided for FY 1977 in the 1976 education appropriations bill (HR 5901) although this measure has not yet been enacted (see section on APPROPRIATIONS for details on HR 5901). The following table shows how the program will be phased in in FY 1976:

<u>Program</u>	<u>FY 1976</u>	<u>FY 1977</u>
ESEA II- (library resources)	45,125,000	-0-
ESEA III (guidance, testing)	9,415,000	-0-
NDEA III (educ. equipment)	14,125,000	-0-
ESEA IV-B (consolidation)	68,665,000	147,330,000**
<u>Total</u>	<u>\$137,330,000</u>	<u>\$147,330,000</u>

**Amount provided in House-passed education appropriations bill (HR 5901) and recommended in Senate Appropriations Committee bill reported from committee June 18. The budget request for ESEA IV-B was \$137,330,000 for both FY 1976 and FY 1977.

Congress will be watching how the new ESEA IV-B program works. Rep. Carl Perkins, chairman of the House Education and Labor Committee, has stated that he is prepared at a later date to hold oversight hearings on libraries and learning resources if necessary. But before such hearings can be held, the school library/media community must become familiar with the new law and keep some statistics on how it is working in comparison with the old ESEA title II program. We must be able to document the case as to whether or not the new consolidated program is helping or hurting the development of school library media service.

Meanwhile, the constitutionality of ESEA title IV-B has been called into question by a Supreme Court ruling which declared a similar program at the state level unconstitutional. A Pennsylvania state law providing loans of instructional materials and equipment to private schools has been ruled unconstitutional by the U.S. Supreme Court, which at the same time upheld the state's textbook loan program for children in nonpublic elementary and secondary schools. Also struck down by the May 19 decision in which the court split 6-3 was Pennsylvania's law providing "auxiliary services" to children in private schools.

Instructional materials are defined as including "books, periodicals, photographs, maps, charts, recordings, and films." Instructional equipment includes "projectors, recorders, and laboratory paraphernalia," and the so-called auxiliary services include "counseling, testing, psychological services, and speech and hearing therapy and related services for exceptional, remedial, or educationally disadvantaged students." Textbooks are defined as "books, reusable workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each pupil in such class or group."

The ruling came in a suit brought by three individuals (all resident taxpayers in Pennsylvania) and four organizations -- the American Civil Liberties Union, the National Association for the Advancement of Colored People, the Pennsylvania Jewish Community Relations Council, and the Americans United for Separation of Church and State.

The court's decision in the Pennsylvania case (Meek et al. v. Pittenger, Secretary of Education, et al., No. 73-1765) has serious implications for the new federal aid program authorized by ESE title IV-B, Libraries and Learning Resources, which provides grants to the states for library resources, educational equipment, guidance, counseling, and testing services. ESEA IV-B requires the "equitable participation" of children in private elementary and secondary schools. It is generally expected that once ESEA IV-B funds have been distributed to the local education agencies, a suit will be brought challenging the constitutionality of the program. The same may occur with respect to title I of ESEA, which authorizes a wide range of services for educationally disadvantaged students.

Folklife Center in the Library of Congress

The Committee on House Administration, believing that a "serious federal effort should be made to make possible the preservation of the folk and ethnic cultures of Americans," reported out a bill (HR 6673) on June 10 that would establish an American Folklife Center in the Library of Congress. The Center would be authorized to enter into contracts, make grants and loans, and award scholarships to individuals and groups for research, scholarship, training, exhibits, performances, and workshops, and it would be directed to establish and maintain in conjunction with other federal agencies a national archive.

and center for American folklife. The bill would authorize \$167,750 for the Center in FY 1976, \$710,000 for FY 1977, and \$1,716,000 for FY 1978. These amounts include the grant-making authority and were recommended by the Librarian of Congress as the minimum funding levels necessary to establish and operate the Center.

American folklife is broadly defined in the bill to mean "the traditional customs, beliefs, dances, songs, tales, sayings, art, crafts, and other expressions of the spirit common to a group of people within any area of the United States, and includes music (vocal and instrumental), dance, drama, lore, beliefs, language, humor, handicraft, painting, sculpture, architecture, other forms of creative and artistic expression, and skills related to the preservation, presentation, performance, and exhibition of the cultural heritage of any family, ethnic, religious, occupational, racial, regional, or other grouping of American people."

ALA supported this legislation last year in testimony submitted to the Senate Subcommittee on the Library as well as to the Committee on House Administration. There is widespread bipartisan support for the measure in Congress, but it is opposed by the National Endowments for the Arts and the Humanities. In its report (H.Rept. 94-273), the House Administration Committee takes note of the fact that the National Endowments' enabling legislation permits them to undertake activities in the folklife area, but goes on to say that the Endowments "have shown little inclination to make a genuine commitment in this area, apparently preferring instead to focus on 'high culture.'"

A similar measure (S.1618) introduced by Sen. James Abourezk (D-SD), with strong bipartisan cosponsorship, is pending in the Senate Subcommittee on the Library. This is a Subcommittee of the Senate Committee on Rules and Administration.

Handicapped

The Bill of Rights for the Mentally Retarded, included last year as title II of a Senate-passed bill amending the Developmental Disabilities Services and Facilities Construction Act (DDSFCA) but still awaiting House-Senate conference when the 93rd Congress adjourned in December, was reintroduced in the 94th Congress as title II of S. 462 by Sen. Jennings Randolph (D-W VA.). The Senate Labor and Public Welfare Committee reported the DDSFCA bill on May 22 (S. Rept. 94-160) and the Senate passed it on June 2. The comparable House-passed measure (HR 4005) extends and amends the Developmental Disabilities Act but does not include the Bill of Rights for the Mentally Retarded. The decision about whether to retain the Bill of Rights will be settled in a House-Senate conference.

First introduced in 1972 by Sen. Jacob Javits (R-N.Y.), the Bill of Rights includes the standards for residential and community facilities of the Joint Commission on the Accreditation of Hospitals (JCAH), which outline in considerable detail the various types of professional services -- including library services -- that should be available to residents and staff of such facilities. Developed a number of years ago by representatives of the Association of Hospital and Institution Libraries and other librarians working with JCAH, the section on standards for library service begins as follows: "Library services, which include the location, acquisition, organization, utilization, retrieval, and delivery of materials in a variety of media, shall be available in the residential facility, in order to support and strengthen its total habilitation program by providing complete and integrated multimedia information services to both staff and residents."

Higher Education Act

Hearings have begun in both the House Subcommittee on Postsecondary Education and the Senate Education Subcommittee on extension of the Higher Education Act which will expire in FY 1976. Although it is authorized only through FY 1975, HEA is automatically extended one year while Congress considers its renewal. The automatic one-year extension is provided by Sec. 414 of the General Education Provisions Act as amended.

In the House subcommittee chaired by Rep. James O'Hara (D. Mich.), the first series of hearings (now concluded) centered on student financial assistance. On February 20, Mr. O'Hara introduced HR 3471 which would amend and extend the basic statutory authority for general federal student financial assistance. Among other things, HR 3471 would require full funding of the college work study program (for which graduate students are eligible as well as undergraduates) at \$480 million the first year and at a higher amount in succeeding years before the undergraduate basic opportunity grants (BOG) could be funded. The bill would also remove financial need as a prerequisite to participation in the work study program. Mr. O'Hara proposed reducing considerably the loan component in the federal student assistance program, increasing instead grant and work opportunities. His bill would award supplemental educational opportunity grants on the dual basis of need and merit, with the idea that "students who have demonstrable need, but who also have demonstrable academic promise, would be able to receive more than just the basic grant which the BOG program gives to everyone who can show financial need."

After concluding the hearings on student aid, the subcommittee had originally planned to move on with the rest of the Higher Education Act, including its title II library provisions, but it has been temporarily delayed by consideration instead of the title IX sex-discrimination regulations on which hearings began in mid-June. (See section on CIVIL RIGHTS for information on title IX.) Mr. O'Hara has introduced a bill (HR 3470) which would provide a simple extension of HEA programs through FY 1980, which he has called "a starting point" for consideration of the rest of the Act.

No bill has been introduced on the Senate side to extend the Higher Education Act, although hearings opened June 10 in the education subcommittee chaired by Sen. Claiborne Pell (D-RI) on HEA title IV, student assistance. "These hearings are in the nature of oversight and information," Sen. Pell announced. "It is my view that the upcoming higher education legislation will hopefully be a simple extension of the existing legislation. The new and varied programs of student assistance enacted in the 1972 bill are now settling into operation. I believe that they should be given a few more years to grow. With more experience gained from their operation meaningful amendments could be considered. What we do intend in this year's higher education bill is to adjust the existing law and regulations so that the goals of the 1972 legislation can be more easily obtained. After the July 4 congressional recess, Sen. Pell's subcommittee will continue its hearings on the rest of the Higher Education Act including the library programs.

Intergovernmental Relations

The Senate Government Operations Committee's Intergovernmental Relations Subcommittee, chaired by Sen. Edmund Muskie (D-Me.), has considered an intergovernmental approach to unemployment and recession, a so-called Intergovernmental Counter-Cyclical Assistance Act (S. 1359) which was introduced by Sen. Muskie on April 7. This measure would provide emergency anti-recession assistance to state and local governments to make sure their budget actions are coordinated with the federal government's efforts to restore growth and prosperity to the