

2017

# Federal Advisory Council to the Arts, United States Arts Foundation: Hearings (August 1962): Report 01

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## Recommended Citation

"Federal Advisory Council to the Arts, United States Arts Foundation: Hearings (August 1962): Report 01" (2017). *Federal Advisory Council to the Arts, United States Arts Foundation: Hearings (August 1962)*. Paper 10.  
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IN THE SENATE OF THE UNITED STATES

Mr. ~~PHIL~~

introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

A B I L L

To establish a United States National Arts Foundation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "United States National Arts Foundation and Cultural Development Act".

DECLARATION OF POLICY

Sec. 2. The Congress finds that <sup>far too many Americans are</sup> ~~a widespread and growing~~ ~~portion of the American public is~~ deprived of the opportunity to view and enjoy the visual arts, such as painting and sculpture, and the performing arts, such as theatrical performances, musical concerts, opera, dance, ballet and choral recitals; that the increasing leisure time and life expectancy of all our people provides increased opportunity to enjoy the benefits of these arts; that the encouragement of these arts will help to satisfy the intellectual and spiritual demands of men's minds; that the Nation's general welfare will be promoted by providing recognition of the status of these arts as a cherished and valued part of the Nation's cultural resources and by encouraging such activity; and that it is desirable to establish a United States National Arts Foundation to provide such recognition and encouragement and to guide and stimulate our cultural development.

ESTABLISHMENT OF FOUNDATION

Sec. 3. There is hereby established in the executive branch of the Government an independent agency to be known as the United States National Arts Foundation (hereinafter referred to as the "Foundation").

TRUSTEES OF FOUNDATION

Sec. 4. (a) The Foundation shall be subject to the general supervision and policy direction of a Board of Trustees which shall consist of the Director of the Foundation (hereinafter referred to as the Director) and twelve members, such twelve members to be appointed by the President, by and with the advice and consent of the Senate, from among those individuals of the American public who are widely recognized for their knowledge of or experience in, or for their profound interest in, one or more of the visual or performing arts and who collectively will provide an appropriate balance of representation among the major art fields <sup>cited in this Act</sup> ~~of these arts~~. In making such appointments, the President is requested to give due consideration to the recommendations for nomination submitted to him by leading national organizations in these fields.

(b) The term of office of each trustee of the Foundation shall be six years; except that the terms of the trustees first taking office after the enactment of this Act shall expire, as designated by the President at the time of appointment, four at the end of two years, four at the end of four years, and four at the end of six years. A vacancy shall be filled only for the unexpired portion of the term. Any person who has been a trustee of the Foundation for twelve consecutive years shall be ineligible for appointment during the following two-year period: Provided, That the provisions of this subsection shall not apply to the Director.

(c) The President shall call the first meeting of the trustees of the Foundation, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until two years after the date of enactment of this Act. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years in duration and each such election shall take place at the annual meeting occurring at the end of each such term. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Foundation shall elect an individual from among the trustees to fill such vacancy.

(d) The trustees of the Foundation shall meet at the call of the Chairman, but not less than four times each year. The Chairman shall also call a meeting whenever one-third of the trustees so request in writing. A majority of the trustees of the Foundation shall constitute a quorum. Each trustee shall be given notice, by registered mail mailed to his last known address of record not less than fifteen days prior to any meeting, of the call of such meeting.

#### DIRECTOR OF FOUNDATION

Sec. 5. (a) The Director of the Foundation shall be appointed by the President, by and with the advice and consent of the Senate. In the appointment of the Director of the Foundation, the President is requested to give due consideration to any recommendations submitted to him by the Board of Trustees. The Director shall serve as an ex officio trustee of the Foundation. In addition, he shall be the chief executive officer of the Foundation. The Director shall receive compensation at the rate of <sup>20,500</sup>~~\$25,000~~ per annum and shall serve for a term of six years unless previously removed by the President: Provided, That at any time a majority of the Board of Trustees may recommend <sup>the Director's</sup> ~~such~~ removal to the President.

(b) The Director may appoint, with the approval of the Foundation, a Deputy Director, who shall perform such functions as the Director, with the approval of the Foundation, may prescribe, be acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director, and receive compensation at a rate not to exceed <sup>18,500</sup>~~\$20,000~~ per annum.

(c) The Director shall have general authority to carry out and execute the programs of the Foundation on a full-time, continuous basis, to recommend programs to the Foundation, and to discharge such other functions as the Foundation may delegate to him consistent with this Act.

(d) The Director and the Deputy Director shall be allowed travel and subsistence expenses while away from their homes or regular places of business in accordance with the Travel Subsistence Act of 1949, as amended, and the Standardized Government Travel Regulations.

### GENERAL POWERS OF FOUNDATION

Sec. 6. The Foundation is authorized to--

(1) stimulate and encourage cultural development throughout the United States and to advance public interest therein; and

(2) foster and encourage professional and civic and non-profit, private, public, educational, institutional, or governmental groups which are engaged in or directly concerned with the performing and visual arts.

### GRANTS TO GROUPS AND STATES

Sec. 7. (a) The Foundation is authorized to provide, through direct grant or otherwise, financial assistance and support from the funds appropriated to the Foundation or otherwise obtained pursuant to section 8 (a) (3) or (4) of this Act, to professional groups, groups meeting professional standards, and educational groups engaged in or concerned with the performing or visual arts, for the purpose of enabling such groups to provide productions of the performing and visual arts, (1) of both new works and existing works of these arts, which have substantial artistic or historic significance, giving preference to encouraging the works of residents of the United States, and (2) of such types or in such regions as would be unavailable to the prospective audience without such assistance. Such groups shall be eligible for financial assistance only if no part of net earnings inures to the benefit of any private stockholder, or stockholders, or individual or individuals, and if such groups satisfy the standards of subsection (c) of section 170 of the Internal Revenue Code of 1954 so as to authorize deductions from gross income of donations to such groups. The Foundation shall wherever practicable develop the principle of matching funds with interested public or private agencies. *(Probably should include and to profit groups, perhaps in the form of guarantees against losses)*

(b) (1) The Foundation is authorized to make grants to assist the several States in supporting existing projects and programs which are making a significant public contribution in one or more of the performing or visual arts, and in developing programs and

projects in these arts in such a manner as will, in conjunction with existing programs and facilities, furnish adequate programs, facilities, and services in these arts to all the peoples and communities in each such State. In order to receive such assistance in any fiscal year, a State shall submit an application for such grants prior to the first day of such fiscal year and accompany such application with a plan which the Foundation finds--

(A) designates a State agency (hereinafter in this Act referred to as the "State agency") as the sole agency for the administration of the <sup>State</sup> plan;

(B) provides that funds paid to the State under this Act will be expended solely on programs and projects approved by the State agency which will ~~administer the plan;~~ <sup>carry out one or more of the objectives of this Act</sup>

(C) provides that the State agency will make such reports, in such form and containing such information, as the Foundation may from time to time require; and

(D) provides for the coordination of the projects and programs carried out under the plan with the artistic and cultural programs and activities of educational and other public and nonprofit institutions in the State.

(2) Each State which has a plan approved by the Foundation in effect on the first day of the fiscal year beginning July 1, 1963, or any succeeding fiscal year, shall be entitled to a maximum allotment in any such fiscal year of an amount equal to half the total amount appropriated to the Foundation for such fiscal year divided by the total number of States. In the event that any sum is remaining out of the maximum allotment available for State grants in any fiscal year after all allotments are made to States with approved plans in effect on the first day of such fiscal year, the Foundation, in its discretion, may grant such remaining sum or any portion thereof to any group or State agency for projects and programs which the Foundation finds will encourage and bring the visual and performing arts to areas of the States where assistance in supporting and developing these arts will be helpful.

(3) The amount of any grants allotted to any State under this Act for any program or project shall not exceed 50 per centum of the total cost of such program or project.

(c) Whenever the Foundation, after reasonable notice and opportunity for hearing to any group or State agency, finds that--

(1) any such group is not complying substantially with the provisions of this Act;

(2) any such agency is not complying substantially with the terms and conditions of its State plan approved under this Act; or

(3) any funds granted to such group or agency under this Act have been diverted from the purposes for which they were allotted or paid

the Foundation shall immediately notify the Secretary of the Treasury and the group or State agency concerned that no further grants will be made under this Act with respect to such group or State agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until the group or State repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

#### ADMINISTRATIVE POWERS AND DUTIES

Sec. 8. (a) The Foundation is authorized to--

(1) prescribe such rules and adopt such bylaws as it deems necessary governing the manner of its operation and its organization and personnel;

(2) make expenditures, and enter into contracts or other arrangements, as may be necessary for administering the provisions of this Act, without regard to the provisions of section 3709 of the Revised Statutes (4 U.S.C. 5);

(3) acquire by loan or gift, and to hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act;

(4) receive and use funds or property donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation; (Should be amended to include earmarked gifts as well)

(includes right to sue + be sued)

(5) accept and utilize the services of voluntary and uncompensated personnel;

(6) pay fees for and enter into contracts with persons for the performance of services required by the Foundation;

(7) pay to persons rendering services to the Foundation, whether on an uncompensated basis or on a fee or contract basis as provided in paragraphs (5) and (6) of this subsection, travel and subsistence expenses while away from their homes or regular places of business in accordance with the Travel Expense Act of 1949, as amended, and the Standardized Government Travel Regulations; and

(8) maintain an office in the District of Columbia.

(b) The Foundation may appoint committees, councils, or panels concerned with particular regions of the country or with particular aspects of the arts, or both, and composed of persons who need not be trustees of the Foundation.

(c) The Foundation shall not itself produce or present any production.

(d) The Foundation shall render an annual report to the President for submission on or before the 15th day of January to the Congress, summarizing the activities of the Foundation and making such recommendations as it may deem appropriate.

#### GENERAL PROVISIONS

Sec. 9. (a) The Director shall, in accordance with such policies as the Foundation shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act. Such appointments shall be made and such compensation shall be fixed in accordance with the provisions of the civil service laws and regulations and the Classification Act of 1949, as amended, except that the Director may, in accordance with such policies as the Foundation shall from time to time prescribe, employ such technical and professional personnel or personnel with experience in or relating to any of the performing or visual arts, and fix their compensation with<sup>out</sup> regard to such laws, as he may deem necessary for the discharge of the responsibilities of the Foundation under this Act. The Deputy Director and the members

of the councils or committees, shall be appointed without regard to the civil service laws or regulations; except that neither the Director nor the Deputy Director shall engage in any other business, vocation, or employment than that of serving as such Director or Deputy Director; or hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any contract or other arrangement under this Act.

(b) The trustees of the Foundation, and the members of the council, committees, and panels <sup>may</sup> shall receive compensation at the rate of <sup>upto</sup> \$50 for each day in which they are actually engaged in the business of the Foundation pursuant to authorization of the Foundation, and shall be allowed travel and subsistence expenses while away from their homes or regular places of business in accordance with the Travel Subsistence Act of 1949, as amended, and the Standardized Government Travel Regulations.

(c) Persons hold<sup>ing</sup>/other offices in the executive branch of the Federal Government may serve as members of the councils, committees, or panels, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(d) Service of an individual as a trustee or employee of the Foundation, or a council, committee, or panel, shall not be considered as service bringing him within the provisions of section 281 or 283 of title 18 of the United States Code or section 99 of title 5 of such code, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such sections, is with respect to any particular matter which directly involves the Foundation or in which the Foundation is directly interested.

(e) Agencies of the United States are authorized to render assistance to the Foundation by the donation or loan of employee services and by the donation or loan of supplies, office or building space, or other property, either on a reimbursable or nonreimbursable basis.

## APPROPRIATIONS

Sec. 10. (a) For the purpose of carrying out the provisions of this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1963, such sum not exceeding \$5,000,000, and for each fiscal year thereafter such sum, not exceeding \$10,000,000 annually, as the Congress may determine. The moneys appropriated to the Foundation shall remain available for expenditure for two years following the expiration of the fiscal year for which appropriated.

(b) Moneys received by the Foundation under section 8 (a) (3) and (4) of this Act, shall not be covered into the Treasury as miscellaneous receipts, but shall be kept in a special account, maintained by the Treasury Department, or kept by the Foundation in commercial banking institutions, or invested in securities eligible for trust funds in the District of Columbia, and shall be available to the Foundation for the purposes of this Act.

(c) The Director shall determine any payments to be made under this Act and certify to the Secretary of the Treasury the amounts thereof. Upon receipt of such certification, the Secretary of the Treasury shall, prior to audit or settlement by the General Accounting Office, pay in accordance with such certification. Sums allotted to any group or State for any fiscal year under this Act and not transferred during that fiscal year shall remain available to such group or State for the same purposes for the next fiscal year in addition to the sums allotted for such next fiscal year.

## DEFINITIONS AND TITLE

Sec. 11. As used in this Act--

(a) The term "visual and performing arts" (1) means the arts of drawing, painting, sculpture, photographic and craft arts, and architecture and allied arts; and (2) means the arts related to performance of theatrical plays, dance, ballet and choral performances, and performances of musical works (instrumental, voice, and/or operatic), including the arts of acting, directing, staging, scenic and costume design, ~~and performance of music, opera, dance, and ballet.~~ Such term ~~does not include the fields of radio, television, or movies and the arts of playwriting, literature, or composition.~~

(b) The term "productions" means plays (with or without music), ballets, dance and choral performances, exhibitions, readings, concerts, recitals, operas, and any other performances before members of the public involving the execution or rendition of any of the visual or performing arts and meeting such standards as may be established by the Foundation.

(c) The term "group" includes any society, institution, organization, or association whether or not incorporated.