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IN THE SENATE OF THE UNITED STATES

JANUARY 31, 1961

Mr. HUMPHREY (for himself, Mr. CLARK, Mr. DOUGLAS, Mr. MORSE, Mr. WILLIAMS of New Jersey, Mr. COOPER, Mr. JAVITS, and Mr. LONG of Missouri) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

OCTOBER 2 (legislative day, October 1), 1962

Reported by Mr. PELL, with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide for the establishment of a Federal Advisory Council on the Arts to assist in the growth and development of the fine arts in the United States.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
2. That the Congress hereby finds and declares—
3. (1) that the growth and flourishing of the arts depend upon freedom, imagination, and individual initiative;
4. (2) that the encouragement of creative activity

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in the performance and practice of the arts; and of a widespread participation in and appreciation of the arts, is essential to the general welfare and the national interest;

(3) that as workdays shorten and life expectancy lengthens, the arts will play an evermore important role in the lives of our citizens; and

(4) that the encouragement of the arts, while primarily a matter for private and local initiative, is an appropriate matter of concern to the United States Government.

Sec. 2 (a) There is hereby established in the Department of Health, Education, and Welfare a Federal Advisory Council on the Arts (hereafter in this Act referred to as the “Council”). The Council shall be composed of twenty-one members appointed by the President, by and with the advice and consent of the Senate, from among private citizens of the United States who are widely recognized for their knowledge of or experience in, or for their profound interest in, one or more of the arts and who collectively will provide an appropriate balance of representation among the major art fields including music, drama, dance, literature, architecture and allied arts; painting; sculpture; photography; graphic and craft arts; motion pictures; radio; and television. The
President is requested in the making of such appointments
to give consideration to such recommendations as may from
time to time be submitted to him by leading national organi-
zations in these fields. Each member of the Council shall
hold office for a term of six years, except that (1) any
member appointed to fill a vacancy occurring prior to the
expiration of the term for which his predecessor was ap-
pointed shall be appointed for the remainder of such term;
and (2) the terms of the members first taking office shall
expire, as designated by the President at the time of appoint-
ment, seven at the end of the second year, seven at the end
of the fourth year, and seven at the end of the sixth year
after the date of enactment of this Act. No member of the
Council shall be eligible for reappointment during the two-
year period following the expiration of his term. The Presi-
dent shall designate one member of the Council to serve as
its chairman. The Council shall meet at the call of the
Chairman or the Secretary of Health, Education, and Wel-
fare (hereafter in this Act referred to as the "Secretary"),
but not less often than twice during each calendar year.
Eleven members of the Council shall constitute a quorum.
(b) The Council shall have an executive secretary who
shall be appointed by the Secretary after consultation with
the Council. Within the limits of appropriations available
therefore, the Secretary shall provide necessary secretarial, clerical, and other staff assistance for the Council, its executive secretary, and its special committees.

SEC. 3. (a) The Council shall (1) recommend ways to maintain and increase the cultural resources of the United States; (2) propose methods to encourage private initiative in the arts; (3) cooperate with local, State, and Federal departments and agencies to foster artistic and cultural endeavors and the use of the arts both nationally and internationally in the best interests of our country; and (4) strive to stimulate greater appreciation of the arts by our citizens.

(b) To these ends the Council shall undertake studies of and make recommendations relating to appropriate methods, consistent with the policy set forth in the first section of this Act, for encouraging creative activity in the performance and practice of the arts and participation in and appreciation of the arts. In selecting subjects to be studied, the Council shall consider requests submitted to it by the heads of the departments, agencies, and independent establishments of the Federal Government. The Council shall make recommendations in writing to the Secretary with respect to such studies; and the Secretary shall transmit such recommendations, together with his comments thereon, to the President and the Congress. In the selection of subjects to be studied and in the formulation of recommenda-
6177 the Council may obtain the advice of any interested
and qualified persons and organizations, and the Secretary
may appoint interested and qualified persons to assist the
Council in making its studies from among those qualified
persons recommended to him by the Council.

Sec. 4. Members of the Council, and persons appointed
to assist the Council in making its studies, while attending
meetings of the Council or while engaged in the conduct of
studies authorized by this Act, shall receive compensation
at a rate to be fixed by the Secretary, but not exceeding
$50 per diem, and shall be paid travel expenses, including
per diem in lieu of subsistence, as authorized by law (5
U.S.C. 73b-2) for persons in the Government service em-
ployed intermittently.

Sec. 5. (a) Any member of the Council appointed un-
der this Act, any person appointed to assist the Council in
making its studies, and any other person appointed, em-
ployed, or utilized in an advisory or consultative capacity
under this Act is hereby exempted, with respect to such
appointment, employment, or utilization, from the opera-
tion of sections 281, 283, 284, and 1914 of title 18 of the
United States Code, except as otherwise specified in sub-
section (b) of this section:

(b)-(1) The exemption granted by subsection (a) of
this section shall not extend to the following acts performed
as an officer or employee of the United States by any
person so appointed, employed, or utilized: (A) The nego-
tiation or execution of; or (B) the making of any recom-
mendation with respect to; or (C) the taking of any other
action with respect to; any individual contract or other
arrangement under this Act with the private employer of
such person or any corporation, joint stock company, asso-
ciation, firm, partnership, or other business entity in the
pecuniary profits or contracts of which such person has any
direct or indirect interest.

(2) The exemption granted by subsection (a) of this
section shall not, during the period of such appointment;
employment, or utilization and the further period of two
years after the termination thereof; extend to the prosecution
or participation in the prosecution; by any person so ap-
pointed; employed; or utilized; of any claim against the
Government involving any individual contract or other ar-
range ment entered into pursuant to this Act concerning
which the appointee had any responsibility during the period
of such appointment, employment, or utilization.

Sec. 6. There are hereby authorized to be appropriated
to the Department of Health, Education, and Welfare such
sums as may be necessary to carry out this Act, including
expenses of professional, clerical, and stenographic assist-
ance. Such appropriations shall be available for services as
authorized by section 15 of the Act of August 2, 1946 (5

Sec. 7. This Act shall not be deemed to invalidate any
 provision in any Act of Congress or Executive order vesting
 authority in the Commission of Fine Arts.

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 Americans desire in-
creased opportunities to view and enjoy the visual and per-
forming arts; that the Nation's prestige and general welfare
will be promoted by recognizing the status of the visual and
performing arts as a cherished and valued part of the Nation's
cultural resources and by encouraging the development and
dissemination of these resources throughout the country; and
that it is desirable to establish an agency in the Federal
Government to provide such recognition and to stimulate
and assist the Nation's cultural progress.

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 (here-
inafter referred to as the "Foundation").
8.

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 cited in this Act. 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 per-
form 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 meet-
ing, of the call of such meeting.
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 $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 the Director's removal to the President.

(b) The Director may appoint, with the approval of the Board of Trustees, a Deputy Director, who shall perform such functions as the Director, with the approval of the trustees, 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 $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 Foun-
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dation, and to discharge such other functions as the Founda-
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tion may delegate to him consistent with this Act.
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(d) The Director and the Deputy Director shall be al-
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lowed travel and subsistence expenses while away from their
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homes or regular places of business in accordance with the
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Travel Subsistence Act of 1949, as amended, and the Stand-
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ardized Government Travel Regulations.
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GENERAL POWERS OF FOUNDATION
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SEC. 6. The Foundation is authorized to—
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(1) stimulate and encourage cultural development
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throughout the United States and to advance public in-
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terest therein; and
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(2) foster and encourage professional and civic and
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nonprofit, private, public, educational, institutional, or
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governmental groups which are engaged in or directly
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concerned with the performing and visual arts.
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GRANTS TO GROUPS AND STATES
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SEC. 7. (a) The Foundation is authorized to provide,
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through direct grant or otherwise, financial assistance and
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support from the funds appropriated to the Foundation or
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otherwise obtained pursuant to section 8(a) (3) or (4) of
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this Act, to professional groups, groups meeting professional
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standards, and educational groups engaged in or concerned
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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 as would be unavailable to audiences in many areas 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.

(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 people 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 State 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 carry out one or more of the objectives of this Act;

(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 Founda-

tion, 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 the
visual and performing arts in areas where such assistance
will be of value.

(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 marked gifts 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;

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

(6) pay fees for and enter into contracts with per-
sons 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 pre-
scribe, employ such technical and professional personnel or
personnel with experience in or relating to any of the per-
forming or visual arts, and fix their compensation without
regard to such laws, as he may deem necessary for the dis-
charge of the responsibilities of the foundation under this
Act. The Deputy Director and the members of the councils,
committees, or panels, 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 ar-
rangements under this Act.

(b) The trustees of the Foundation, and the members of
the councils, committees, and panels shall receive compensation
at the rate of up to $50 for each day in which they are actually
engaged in the business of the Foundation pursuant to author-
ization 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 holding 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 per-
formed 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 reim-
bursable or nonreimbursable basis.
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.

(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.

Amend the title so as to read: "A bill to establish a United States National Arts Foundation."