

1-9-1963

Arts Legislation (1961-1965): Report 02

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S. 165

IN THE SENATE OF THE UNITED STATES

JANUARY 14 (legislative day, JANUARY 9), 1963

Mr. JAVITS (for himself, Mr. CLARK, Mr. HUMPHREY, and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To establish a United States National Arts Foundation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "United
5 States National Arts Foundation and Cultural Development
6 Act".

7 DECLARATION OF POLICY

8 SEC. 2. The Congress finds that Americans desire in-
9 creased opportunities to view and enjoy the visual and per-
10 forming arts; that the Nation's prestige and general welfare
11 will be promoted by recognizing the status of the visual and

1 performing arts as a cherished and valued part of the Nation's
2 cultural resources and by encouraging the development and
3 dissemination of these resources throughout the country; and
4 that it is desirable to establish an agency in the Federal
5 Government to provide such recognition and to stimulate
6 and assist the Nation's cultural progress.

7 ESTABLISHMENT OF FOUNDATION

8 SEC. 3. There is hereby established in the executive
9 branch of the Government an independent agency to be
10 known as the United States National Arts Foundation (here-
11 inafter referred to as the "Foundation").

12 TRUSTEES OF FOUNDATION

13 SEC. 4. (a) The Foundation shall be subject to the
14 general supervision and policy direction of a Board of
15 Trustees which shall consist of the Director of the Foundation
16 (hereinafter referred to as the Director) and twenty-four
17 members, such twenty-four members to be appointed by the
18 President, by and with the advice and consent of the Senate,
19 from among those individuals of the American public who
20 are widely recognized for their knowledge of or experience
21 in, or for their profound interest in, one or more of the visual
22 or performing arts and who collectively will provide an ap-
23 propriate balance of representation among the major art
24 fields cited in this Act. In making such appointments, the
25 President is requested to give due consideration to the recom-

1 mendations for nomination submitted to him by leading na-
2 tional organizations in these fields.

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

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

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

9

DIRECTOR OF FOUNDATION

10 SEC. 5. (a) The Director of the Foundation shall be
11 appointed by the President, by and with the advice and con-
12 sent of the Senate. In the appointment of the Director of the
13 Foundation, the President is requested to give due considera-
14 tion to any recommendations submitted to him by the Board
15 of Trustees. The Director shall serve as an ex officio trustee
16 of the Foundation. In addition, he shall be the chief execu-
17 tive officer of the Foundation. The Director shall receive
18 compensation at the rate of \$25,000 per annum and shall
19 serve for a term of six years unless previously removed by
20 the President: *Provided*, That at any time a majority of the
21 Board of Trustees may recommend the Director's removal to
22 the President.

23 (b) The Director may appoint, with the approval of the
24 Board of Trustees, a Deputy Director, who shall perform
25 such functions as the Director, with the approval of the

1 trustees, may prescribe, be Acting Director during the absence
2 or disability of the Director or in the event of a vacancy in
3 the office of the Director, and receive compensation at a rate
4 not to exceed \$20,000 per annum.

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

10 (d) The Director and the Deputy Director shall be al-
11 lowed travel and subsistence expenses while away from their
12 homes or regular places of business in accordance with the
13 Travel Subsistence Act of 1949, as amended, and the Stand-
14 ardized Government Travel Regulations.

15 GENERAL POWERS OF FOUNDATION

16 SEC. 6. The Foundation is authorized to—

17 (1) stimulate and encourage cultural development
18 throughout the United States and to advance public in-
19 terest therein; and

20 (2) foster and encourage professional and civic and
21 nonprofit, private, public, educational, institutional, or
22 governmental groups which are engaged in or directly
23 concerned with the performing and visual arts.

GRANTS TO GROUPS AND STATES

1
2 SEC. 7. (a) The Foundation is authorized to provide,
3 through direct grant or otherwise, financial assistance and
4 support from the funds appropriated to the Foundation or
5 otherwise obtained pursuant to section 8 (a) (3) or (4) of
6 this Act, to professional groups, groups meeting professional
7 standards, and educational groups engaged in or concerned
8 with the performing or visual arts, for the purpose of enabling
9 such groups to provide productions of the performing and
10 visual arts, (1) of both new works and existing works of these
11 arts, which have substantial artistic or historic significance,
12 giving preference to encouraging the works of residents of the
13 United States, and (2) of such types as would be unavailable
14 to audiences in many areas without such assistance. Such
15 groups shall be eligible for financial assistance only if no part
16 of net earnings inures to the benefit of any private stock-
17 holder, or stockholders, or individual or individuals, and if
18 such groups satisfy the standards of subsection (c) of sec-
19 tion 170 of the Internal Revenue Code of 1954 so as to
20 authorize deductions from gross income of donations to such
21 groups. The Foundation shall, wherever practicable, de-
22 velop the principle of matching funds with interested public
23 or private agencies.

24 (b) (1) The Foundation is authorized to make grants
25 to assist the several States in supporting existing projects

1 and programs which are making a significant public contri-
2 bution in one or more of the performing or visual arts, and in
3 developing programs and projects in these arts in such a man-
4 ner as will, in conjunction with existing programs and facili-
5 ties, furnish adequate programs, facilities, and services in
6 these arts to all the people and communities in each such
7 State. In order to receive such assistance in any fiscal year,
8 a State shall submit an application for such grants prior to
9 the first day of such fiscal year and accompany such appli-
10 cation with a plan which the Foundation finds—

11 (A) designates a State agency (hereinafter in this
12 Act referred to as the "State agency") as the sole
13 agency for the administration of the State plan;

14 (B) provides that funds paid to the State under
15 this Act will be expended solely on programs and proj-
16 ects approved by the State agency which carry out one
17 or more of the objectives of this Act;

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

21 (D) provides for the coordination of the projects
22 and programs carried out under the plan with the artis-
23 tic and cultural programs and activities of educational
24 and other public and nonprofit institutions in the State.

25 (2) Each State which has a plan approved by the

1 Foundation in effect on the first day of the fiscal year begin-
2 ning July 1, 1964, or any succeeding fiscal year, shall be
3 entitled to a maximum allotment in any such fiscal year of an
4 amount equal to half the total amount appropriated to the
5 Foundation for such fiscal year divided by the total number
6 of States. In the event that any sum is remaining out of the
7 maximum allotment available for State grants in any fiscal
8 year after all allotments are made to States with approved
9 plans in effect on the first day of such fiscal year, the Founda-
10 tion, in its discretion, may grant such remaining sum or any
11 portion thereof to any group or State agency for projects and
12 programs which the Foundation finds will encourage the
13 visual and performing arts in areas where such assistance
14 will be of value.

15 (3) The amount of any grants allotted to any State
16 under this Act for any program or project shall not exceed
17 50 per centum of the total cost of such program or project.

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

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

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

1 (3) any funds granted to such group or agency
2 under this Act have been diverted from the purposes for
3 which they were allotted or paid
4 the Foundation shall immediately notify the Secretary of the
5 Treasury and the group or State agency concerned that no
6 further grants will be made under this Act with respect to such
7 group or State agency until there is no longer any default or
8 failure to comply or the diversion has been corrected, or, if
9 compliance or correction is impossible, until the group or
10 State repays or arranges the repayment of the Federal funds
11 which have been improperly diverted or expended.

12 ADMINISTRATIVE POWERS AND DUTIES

13 SEC. 8. (a) The Foundation is authorized to—

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

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

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

1 (4) receive and use funds or marked gifts or prop=
2 erty donated by others, if such funds are donated with=
3 out restriction other than that they be used in further=
4 ance of one or more of the general purposes of the
5 Foundation;

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

8 (6) pay fees for and enter into contracts with per=
9 sons for the performance of services required by the
10 Foundation;

11 (7) pay to persons rendering services to the Foun=
12 dation, whether on an uncompensated basis or on a fee or
13 contract basis as provided in paragraphs (5) and (6) of
14 this subsection, travel and subsistence expenses while away
15 from their homes or regular places of business in accord=
16 ance with the Travel Expense Act of 1949, as amended,
17 and the Standardized Government Travel Regulations;
18 and

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

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

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

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

6 GENERAL PROVISIONS

7 SEC. 9. (a) The Director shall, in accordance with such
8 policies as the Foundation shall from time to time prescribe,
9 appoint and fix the compensation of such personnel as may
10 be necessary to carry out the provisions of this Act. Such
11 appointments shall be made and such compensation shall be
12 fixed in accordance with the provisions of the civil service
13 laws and regulations and the Classification Act of 1949, as
14 amended, except that the Director may, in accordance with
15 such policies as the Foundation shall from time to time pre-
16 scribe, employ such technical and professional personnel or
17 personnel with experience in or relating to any of the per-
18 forming or visual arts, and fix their compensation without
19 regard to such laws, as he may deem necessary for the dis-
20 charge of the responsibilities of the foundation under this
21 Act, the Deputy Director and the members of the councils,
22 committees, or panels, shall be appointed without regard to
23 the civil service laws or regulations; except that neither the
24 Director nor the Deputy Director shall engage in any other
25 business, vocation, or employment than that of serving as

1 such Director or Deputy Director; or hold any office in, or act
2 in any capacity for, any organization, agency, or institution
3 with which the Foundation makes any contract or other ar-
4 rangement under this Act.

5 (b) The trustees of the Foundation, and the members of
6 the councils, committees, and panels shall receive compensa-
7 tion at the rate of up to \$50 for each day in which they are
8 actually engaged in the business of the Foundation pursuant
9 to authorization of the Foundation, and shall be allowed
10 travel and subsistence expenses while away from their homes
11 or regular places of business in accordance with the Travel
12 Subsistence Act of 1949, as amended, and the Standardized
13 Government Travel Regulations.

14 (c) Persons holding other offices in the executive
15 branch of the Federal Government may serve as members
16 of the councils, committees, or panels, but they shall not
17 receive remuneration for their services as such members
18 during any period for which they receive compensation for
19 their services in such other offices.

20 (d) Service of an individual as a trustee or employee
21 of the Foundation, or a council, committee, or panel, shall
22 not be considered as service bringing him within the provi-
23 sions of section 281 or 283 of title 18 of the United States
24 Code or section 99 of title 5 of such Code, unless the act of

1 such individual, which by such section is made unlawful when
2 performed by an individual referred to in such sections, is with
3 respect to any particular matter which directly involves the
4 Foundation or in which the Foundation is directly interested.

5 (e) Agencies of the United States are authorized to
6 render assistance to the Foundation by the donation or loan
7 of employee services and by the donation or loan of supplies,
8 office or building space, or other property, either on a reim-
9 bursable or nonreimbursable basis.

10 APPROPRIATIONS

11 SEC. 10. (a) For the purpose of carrying out the pro-
12 visions of this Act, there is hereby authorized to be appropri-
13 ated for the fiscal year ending June 30, 1964, such sum, not
14 exceeding \$5,000,000, and for each fiscal year thereafter
15 such sum, not exceeding \$10,000,000 annually, as the Con-
16 gress may determine. The moneys appropriated to the Foun-
17 dation shall remain available for expenditure for two years
18 following the expiration of the fiscal year for which appropri-
19 ated.

20 (b) Moneys received by the Foundation under section
21 8 (a) (3) and (4) of this Act, shall not be covered into the
22 Treasury as miscellaneous receipts, but shall be kept in a
23 special account, maintained by the Treasury Department, or
24 kept by the Foundation in commercial banking institutions,

1 or invested in securities eligible for trust funds in the District
 2 of Columbia, and shall be available to the Foundation for
 3 the purposes of this Act.

4 (c) The Director shall determine any payments to be
 5 made under this Act and certify to the Secretary of the
 6 Treasury the amounts thereof. Upon receipt of such cer-
 7 tification, the Secretary of the Treasury shall, prior to audit
 8 or settlement by the General Accounting Office, pay in accord-
 9 ance with such certification. Sums allotted to any group
 10 or State for any fiscal year under this Act and not transferred
 11 during that fiscal year shall remain available to such group
 12 or State for the same purposes for the next fiscal year in
 13 addition to the sums allotted for such next fiscal year.

14 **DEFINITIONS AND TITLE**

15 **SEC. 11.** As used in this Act—

16 (a) The term “visual and performing arts” (1) means
 17 the arts of drawing, painting, sculpture, graphic, photo-
 18 graphic and craft arts, and architecture and allied arts; and
 19 (2) means the arts related to performance of theatrical
 20 plays, dance, ballet and choral performances, and perform-
 21 ances of musical works (instrumental, voice, and/or op-
 22 eratic), including the arts of acting, directing, staging,
 23 scenic and costume design.

24 (b) The term “productions” means plays (with or with-
 25 out music), ballets, dance and choral performances, exhibi-

1 tions, readings, concerts, recitals, operas, and any other
2 performances before members of the public involving the
3 execution or rendition of any of the visual or performing arts
4 and meeting such standards as may be established by the
5 Foundation.

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

88TH CONGRESS
1ST SESSION

S. 165

A BILL

To establish a United States National Arts
Foundation.

By Mr. JAVITS, Mr. CLARK, Mr. HUMPHREY, and
Mr. PELL

JANUARY 14 (legislative day, JANUARY 9), 1963
Read twice and referred to the Committee on Labor
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