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S. 1316

IN THE SENATE OF THE UNITED STATES

April 11, 1963

Mr. Humphrey (for himself, Mr. Clark, Mr. Cooper, Mr. Javits, Mr. Long of Louisiana, Mr. Metcalf, Mr. Pell, Mr. Randolph, Mr. Ribicoff, and Mr. Scott) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

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

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 “National Arts and Cultural Development Act of 1963”.

declaration of policy

SEC. 2. The Congress hereby finds and declares—

(1) that the encouragement and support of the arts, while primarily a matter for private and local
initiative, is also an appropriate matter of concern to
the Federal Government;

(2) that the Nation’s prestige and general welfare
will be promoted by providing recognition that the arts
are a valued part of the Nation’s resources;

(3) that it is in the best interests of the United
States to maintain, develop, and disseminate the Nation’s
artistic and cultural resources; and

(4) that, in order to implement these findings, it is
desirable to establish a National Council on the Arts and
a National Arts Foundation to provide such recognition
and assistance as will encourage and promote the Na-
tion’s artistic and cultural progress.

TITLE I—NATIONAL COUNCIL ON THE ARTS

SEC. 101. This title may be cited as the “National
Council on the Arts Act of 1963”.

ESTABLISHMENT OF THE COUNCIL

SEC. 102. There is hereby established in the Executive
Office of the President a National Council on the Arts (here-
after referred to as the “Council”).

MEMBERSHIP OF THE COUNCIL

SEC. 103. (a) The Council shall be composed of the
Chairman provided for in section 104 of this title, and twenty-
four members appointed by the President, by and with the
advice and consent of the Senate. Such members shall be
selected (1) 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; (2) so as to include practicing artists, civic and cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and (3) so as collectively to provide an appropriate distribution of membership among the major art fields including music, drama, dance, folk art, literature, architecture and allied arts, painting, sculpture, photography, graphic and craft arts, costume and fashion design, 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 organizations in these fields.

(b) 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 appointed 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 appointment, eight at the end of the second year, eight at the end of the fourth year, and eight 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.

(c) Any vacancy in the Council shall not affect its
powers, but shall be filled in the same manner in which the
original appointment was made.

SPECIAL CONSULTANT ON THE ARTS

SEC. 104. (a) The President shall appoint, by and with
the advice and consent of the Senate, a Special Consultant
on the Arts (hereinafter referred to as the "Special Con-
sultant") from among private citizens of the United States
who are widely recognized for their knowledge of or ex-
perience in, or for their profound interest in, the arts. The
Special Consultant shall serve as Chairman of the Council.
In addition, he shall advise the President with respect to the
activities of the Federal Government in the arts. If a
vacancy occurs in the Office of Special Consultant, the Presi-
dent shall fill the vacancy in the same manner in which
the original appointment was made.

(b) The Special Consultant shall serve at the pleasure
of the President, but not in excess of eight consecutive years,
and shall not be eligible for reappointment during the four-
year period following the expiration of his last period of
service as a Special Consultant. The provisions of this sub-
section shall apply to any person appointed to fill a vacancy
in the Office of Special Consultant.
(c) The Special Consultant shall receive compensation at the rate of $22,500 per annum, and shall be reimbursed for travel and subsistence expenses incurred by him while away from his home or regular place of business in accordance with the Travel Expense Act of 1949, as amended (5 U.S.C. 836–842), and the Standardized Government Travel Regulations.

DUTIES AND RESPONSIBILITIES OF THE COUNCIL

Sec. 105. (a) The Council shall meet at the call of the Special Consultant but not less often than twice during each calendar year. Thirteen members of the Council shall constitute a quorum.

(b) 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) advise and consult with the National Arts Foundation, and other local, State, and Federal departments and agencies, on methods by which 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) conduct studies and make recommendations with a view to formulating methods or ways by which creative activity and high standards and increased opportunities in the arts may be encouraged and promoted in the best interests of the Nation's artistic and cultural progress, and a greater ap-
preciation and enjoyment of the arts by our citizens can
be encouraged and developed.

(c) In selecting subjects to be studied pursuant to sub-
section (b) of this section, the Council (1) shall consider
requests submitted to it by the Chairman of the National
Arts Foundation, and the heads of departments and agencies
of the Federal Government, and (2) may obtain the advice
of any interested and qualified persons and organizations.
In making its studies pursuant to such subsection, the Council
may obtain assistance from such committees and panels as
may be appointed by the Special Consultant from among
those persons professionally qualified in the fields of art
with which such studies are concerned, who are recommended
to him by the Council.

(d) Not later than ninety days after the end of each
fiscal year, the Council shall submit to the President and the
Congress an annual report setting forth its activities pursuant
to subsection (b) of this section. In addition, the Council
shall submit to the President reports and recommendations
with respect to its activities at such time or times as the Presi-
dent shall request or the Council deems appropriate. The
President shall transmit such recommendations as he may
deem fit, together with his comments thereon, to the Con-
gress.
COMPENSATION OF MEMBERS OF THE COUNCIL

Sec. 106. 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 duties related to such meetings, or while engaged in the conduct of studies authorized by this title, shall receive compensation at a rate to be fixed by the Special Consultant, but not exceeding $75 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 employed intermittently.

STAFF OF THE COUNCIL

Sec. 107. (a) There shall be an Executive Secretary of the Council who shall be appointed by the Special Consultant after consultation with the Council. The Executive Secretary shall receive compensation at a rate prescribed by the Special Consultant, but not in excess of the scheduled rate of basic compensation provided for grade GS-18 in the Classification Act of 1949.

(b) The Special Consultant is authorized to appoint, subject to the civil service laws, such secretarial, clerical, and other staff assistance as is necessary to enable the Special Consultant and the Council, its Executive Secretary, and its special committees, to carry out their functions and duties,
and to fix the compensation of persons so appointed in accordance with the Classification Act of 1949.

(e) The Special Consultant is authorized to procure in accordance with such policies as the Council shall from time to time prescribe, without regard to the civil service laws and the classification laws, temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), but at rates for individuals not in excess of $75 a day.

DONATIONS OF FUNDS OR GIFTS

SEC. 108. The Council is authorized to receive and use funds or marked gifts 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 Council. Moneys received by the Council under this section 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 Council 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 title.

EXPENSES OF THE COUNCIL

SEC. 109. There are hereby authorized to be appropriated to the Council such sums as may be necessary to carry out the purposes of this title.
GENERAL PROVISION

SEC. 110. This title shall not be deemed to invalidate any provision in any Act of Congress or Executive order vesting authority in the Commission of Fine Arts.

TITLE II—NATIONAL ARTS FOUNDATION

SEC. 201. This title may be cited as the "National Arts Foundation Act of 1963".

ESTABLISHMENT OF FOUNDATION

SEC. 202. There is hereby established in the executive branch of the Government an independent agency to be known as the National Arts Foundation (hereinafter referred to as the "Foundation").

TRUSTEES OF FOUNDATION

SEC. 203. (a) The Foundation shall be subject to the general supervision and policy direction of a Board of Trustees which shall consist of twenty-one members to be appointed by the President, by and with the advice and consent of the Senate. Such members shall be selected (1) 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; (2) so as to include practicing artists, civic and cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and (3) so as collec-
tively to provide an appropriate distribution of membership among the major art fields listed in section 211 (a) of this title. 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 organizations in these fields and the National Council on the Arts.

(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 title shall expire, as designated by the President at the time of appointment, seven at the end of two years after the date of enactment of this title, seven at the end of four years after such date, and seven at the end of six years after such date. If a vacancy occurs in the term of office of a trustee, such vacancy shall be filled only for the unexpired portion of such term. Any person who has been a trustee of the Foundation for twelve or more consecutive years shall be ineligible for appointment during the two-year period following the termination of his duties as such a trustee.

(c) Any vacancy in the Foundation shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) A majority of the trustees of the Foundation shall constitute a quorum.
(e) 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 title. Thereafter each Chairman and Vice Chairman shall be elected for a term of four 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 for the remainder of such term.

(f) 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. 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. 204. (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 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 $22,500 per annum and shall serve for a term of six years unless previously removed by 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, and shall be Acting Director during the absence or disability of the Director. In the event of a vacancy in the office of the Director, the Deputy Director shall serve as Acting Director until the President shall fill such vacancy. The Deputy Director shall receive compensation at a rate not to exceed the scheduled rate of basic compensation provided for grade GS-18 in the Classification Act of 1949.

(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 title.

(d) The Director and the Deputy Director shall be reimbursed for travel and subsistence expenses incurred by them 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.

(e) The Director and the Deputy Director shall be appointed without regard to the civil service laws and regulations.

(f) The Director and the Deputy Director shall not engage in any other business, vocation, or employment than that of serving as 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.

GRANTS TO GROUPS AND STATES

SEC. 205. (a) (1) The Foundation is authorized to establish and conduct a program of grants-in-aid in a manner consistent with the declaration of policy set forth in the National Arts and Cultural Development Act of 1963, from the funds appropriated to the Foundation or otherwise obtained pursuant to section 207(a) (3) or (4) of this title, to nonprofit professional groups (and nonprofit groups meeting professional standards) engaged in or concerned with the arts, for the purpose of enabling such groups to provide (1) productions which have substantial artistic and cultural significance, giving preference to works of persons domiciled in the United States, (2) productions of
significant merit that, without such assistance, would otherwise be unavailable to our citizens in many areas of the country, (3) projects that will encourage and assist artists domiciled in the United States, (4) projects that will encourage and develop the appreciation and enjoyment of the arts by our citizens, and (5) other relevant projects including surveys, research, and planning in the arts. No portion of any moneys granted under this subsection shall be applied to the purchase, erection, preservation, or repair of any building or buildings, or for the purchase or rental of any lands.

(2) No payment may be made to any group under this section except upon application therefor which is submitted to the Foundation in accordance with regulations prescribed by the Foundation.

(3) The amount of any grants allotted to any group pursuant to this subsection shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds appropriated to the Foundation for the purposes of this section for any fiscal year may be available for allotment by the Foundation in such fiscal year without regard to such limitation in the case of any group which submits evidence to the Foundation that it has attempted unsuccessfully to secure an amount of funds equal to the grant applied for by such group, together
with a statement of the proportion which any funds it has
secured represent of the funds applied for by such group.

(4) Any group shall be eligible for financial assistance
pursuant to this section only if (A) no part of its net earn-
ings inures to the benefit of any private stockholder, or stock-
holders, or individual or individuals, and (B) donations to
such group are allowable as a charitable contribution under
the standards of subsection (c) of section 170 of the Internal
Revenue Code of 1954.

(b) (1) The Foundation is authorized to establish and
conduct a program of grants-in-aid, in a manner consistent
with the declaration of policy set forth in the National Arts
and Cultural Development Act of 1963, from the funds ap-
propriated to the Foundation or otherwise obtained pursuant
to section 207 (a) (3) or (4) of this title, to assist the sev-
eral States in supporting existing projects and productions
which are making a significant public contribution in one
or more of the arts, and in developing projects and produc-
tions in the arts in such a manner as will furnish adequate
programs, facilities, and services in the arts to all the people
and communities in each of the several States. No portion
of any moneys granted under this subsection shall be applied
to the purchase, erection, preservation, or repair of any
building or buildings, or for the purchase or rental of any
lands.
(2) 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 title 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 title will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of this title; and

(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.

(3) Each State which has a plan approved by the Foundation in effect on the first day of the fiscal year beginning July 1, 1964, 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 the purposes of this section 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 grants to each State 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 the aggregate of such remaining sums or any portion thereof to any group eligible for financial assistance under subsection (a) of this section or State agency for projects and productions which the Foundation finds will encourage the arts in areas where such assistance will be of value. In making grants to any group pursuant to this subsection, the Foundation shall require matching funds in accordance with the provisions of subsection (a) (3) of this section.

(4) The amount of any grants allotted to any State or State agency pursuant to this subsection for any project or production shall not exceed 50 per centum of the total cost of such project or production.

(e) 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 title;

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

(3) any funds granted to such group or agency under this title 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 title with respect to
such group or State agency until there is no longer any de-
fault 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.

ADVISORY COMMITTEES, COUNCILS, OR PANELS

Sec. 206. The Foundation may appoint persons other
than trustees of the Foundation to committees, councils, or
panels concerned with particular regions of the country or
with particular aspects of the arts, or both, to advise and
consult with the Foundation with respect to the duties of the
Foundation and the projects and productions for which
financial assistance is sought by groups and States. Such ap-
pointments shall be made without regard to the civil service
laws and regulations.

ADMINISTRATIVE POWERS AND DUTIES OF THE FOUNDATION

Sec. 207. (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 admin-
istering the provisions of this title, 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 exer-
cise of authority granted by this title;

(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
persons for the performance of services required by the
Foundation;

(7) pay to persons rendering services to the Foun-
dation 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 ac-
cordance with the Travel Expense Act of 1949, as
amended, and the Standardized Government Travel
Regulations; and
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(8) maintain an office in the District of Columbia.

(b) The Foundation is authorized to procure assistance, as specified herein, from any department, agency, and instrumentality of the executive branch of the Government, or any independent agency of the United States, with the consent of the head thereof, and each such department, agency, or instrumentality is authorized to render such 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, upon request made by the Director or Deputy Director of the Foundation.

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

(d) Not later than ninety days after the end of each fiscal year, the Foundation shall submit to the President and the Congress an annual report summarizing the activities of the Foundation and making such recommendations as it may deem appropriate.

STAFF OF THE FOUNDATION

SEC. 208. 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 title. 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 arts, and fix their compensation without regard to such laws, as he may deem necessary for the discharge of the responsibilities of the Foundation under this title.

COMPENSATION OF THE TRUSTEES OF THE FOUNDATION AND THE MEMBERS OF ITS COUNCILS, COMMITTEES, AND PANELS

SEC. 209. The trustees of the Foundation, and the members of the councils, committees, and panels shall receive compensation at a rate to be fixed by the President in the case of the trustees, and by the Foundation in the case of the members, but not to exceed $75 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.
 Appropriations

Sec. 210. (a) For the purpose of making grants authorized in section 205 of this title, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1964, 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 207 (a) (3) and (4) of this title, 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 title.

(c) The Director shall determine any payments to be made under this title 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 title 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.

(d) There are hereby authorized to be appropriated such sums as are necessary to administer the provisions of this title.

DEFINITIONS

SEC. 211. As used in this title—

(a) The term "the arts" means (1) the major art fields including music (instrumental and vocal), drama, dance, folk art, literature, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, costume and fashion design, motion pictures, television, and radio; and (2) the arts related to the presentation, performance, execution, and exhibition of such major art fields.

(b) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, radio, and television, and any other activities involving the execution or rendition of the arts and meeting such standards as the Foundation may establish.

(c) The term "project" means programs organized by groups, States, and State agencies to carry out the purposes of this Act, including educational programs, artistic and cultural appreciation courses, training of artists, commission-
A BILL

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

By Mr. Humphrey, Mr. Clark, Mr. Cooper, Mr. Javits, Mr. Long of Louisiana, Mr. M ERCALF, Mr. Pell, Mr. Randolph, Mr. Ribicoff, and Mr. Scott

APRIL 11, 1963
Read twice and referred to the Committee on Labor and Public Welfare