

89TH CONGRESS
1ST SESSION

H. R. 2042

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1965

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To establish a 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 "National Arts
5 Foundation Act of 1965".

6 DECLARATION OF POLICY

7 SEC. 2. The Congress finds that a widespread and grow-
8 ing portion of the American public is deprived of the oppor-
9 tunity to view and enjoy the visual arts, such as painting and
10 sculpture, and the performing arts, such as theatrical per-
11 formances, musical concerts, opera, dance, ballet and choral

1 recitals; that the increasing leisure time and life expectancy
2 of all our people provides increased opportunity to enjoy the
3 benefits of the arts; that the encouragement of these arts will
4 help to satisfy the intellectual and spiritual demands of men's
5 minds; that the Nation's general welfare will be promoted by
6 providing recognition of the status of these arts as a cher-
7 ished and valued part of the Nation's cultural resources and
8 by encouraging such activity; and that it is desirable to
9 establish a National Arts Foundation to provide such recog-
10 nition and encouragement.

11 ASSURANCE AGAINST FEDERAL INTERFERENCE IN THE ARTS

12 SEC. 3. In the administration of this Act no department,
13 agency, officer, or employee of the United States shall exer-
14 cise any direction, supervision, or control, over the policy
15 or program determination of any group, State, or State
16 agency involved in the arts.

17 ESTABLISHMENT OF FOUNDATION

18 SEC. 4. There is hereby established in the executive
19 branch of the Government an independent agency to be
20 known as the National Arts Foundation (hereinafter re-
21 ferred to as the "Foundation").

22 NATIONAL COUNCIL ON THE ARTS

23 SEC. 5. For the purpose of carrying out the objectives
24 of this Act, the National Council on the Arts (hereinafter
25 referred to as the "Council"), established by the National

1 Arts and Cultural Development Act of 1964, is authorized
2 and directed to administer the Foundation, discharge the
3 functions and duties provided by this Act for the Founda-
4 tion, and execute the programs of the Foundation. The
5 Council shall meet not less than two times each year in its
6 capacity of administering the Foundation. Except as other-
7 wise provided in this Act, the provisions of the National
8 Arts and Cultural Development Act of 1964 shall be ap-
9 plicable, insofar as necessary to carry out the objectives of
10 this Act, with respect to the membership of the Council,
11 procedural matters of the Council, the appointment and pro-
12 curing of staff by the Council, and the compensation of
13 members and staff of the Council.

14 GRANTS TO GROUPS AND STATES

15 SEC. 6. (a) (1) The Foundation is authorized to estab-
16 lish and conduct a program of grants-in-aid from the funds
17 appropriated to the Foundation or otherwise obtained pur-
18 suant to section 8 (a) (3) or (4) of this Act, to nonprofit
19 professional groups (and nonprofit groups meeting profes-
20 sional standards or standards of authenticity) engaged in
21 or concerned with the arts, for the purpose of enabling such
22 groups to provide (A) productions which have substantial
23 artistic and cultural significance, giving emphasis to Amer-
24 ican creativity, (B) productions irrespective of origin which
25 are of significant merit and which, without such assistance,

1 would otherwise be unavailable to our citizens in many areas
2 of the country, (C) projects that will encourage and assist
3 artists who are citizens or who have evidenced their inten-
4 tion to become citizens of the United States, (D) projects
5 that will encourage and develop the appreciation and en-
6 joyment of the arts by our citizens, and (E) other rele-
7 vant projects including surveys, research, and planning in
8 the arts. No portion of any moneys granted under this sub-
9 section shall be applied to the purchase, erection, preserva-
10 tion, or repair of any building or buildings, or for the pur-
11 chase or rental of any lands.

12 (2) No payment may be made to any group under
13 this section except upon application therefor which is sub-
14 mitted to the Foundation in accordance with regulations pre-
15 scribed by the Foundation.

16 (3) The amount of any grants allotted to any group
17 pursuant to this subsection shall not exceed 50 per centum
18 of the total cost of such project or production, except that
19 not more than 20 per centum of the funds appropriated to
20 the Foundation for the purposes of this section for any
21 fiscal year may be available for allotment by the Foundation
22 in such fiscal year without regard to such limitation in the
23 case of any group which submits evidence to the Founda-
24 tion that it has attempted unsuccessfully to secure an amount
25 of funds equal to the grant applied for by such group, to-

1 gether with a statement of the proportion which any funds
2 it has secured represent of the funds applied for by such
3 group.

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

11 (5) Except as otherwise provided in the second sen-
12 tence of subsection (b) (3) of this section, the total amount
13 appropriated to the Foundation for grants-in-aid to groups
14 for any fiscal year shall be equal to the total amounts ap-
15 propriated to the Foundation for grants-in-aid to States for
16 such fiscal year.

17 (b) (1) The Foundation is authorized to establish and
18 conduct a program of grants-in-aid from the funds appropri-
19 ated to the Foundation or otherwise obtained pursuant to
20 section 8 (a) (3) or (4) of this Act, to assist the several
21 States in supporting existing projects and productions which
22 are making a significant public contribution in one or more
23 of the arts, and in developing projects and productions in
24 the arts in such a manner as will furnish adequate programs,

1 facilities, and services in the arts to all the people and com-
2 munities in each of the several States. No portion of any
3 moneys granted under this subsection shall be applied to the
4 purchase, erection, preservation, or repair of any building or
5 buildings, or for the purchase or rental of any lands.

6 (2) In order to receive such assistance in any fiscal
7 year, a State shall submit an application for such grants prior
8 to the first day of such fiscal year and accompany such ap-
9 plication with a plan which the Foundation finds—

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

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

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

20 (3) Each State which has a plan approved by the
21 Foundation in effect on the first day of the fiscal year begin-
22 ning July 1, 1965, or any succeeding fiscal year, shall be
23 entitled to a maximum allotment in any such fiscal year of
24 an amount equal to half the total amount appropriated to
25 the Foundation for the purposes of this section for such fiscal

1 year divided by the total number of States. In the event
2 that any sum is remaining out of the maximum allotment
3 available for grants to each State in any fiscal year after all
4 allotments are made to States with approved plans in effect
5 on the first day of such fiscal year, the Foundation, in its
6 discretion, may grant the aggregate of such remaining sums
7 or any portion thereof to any group eligible for financial
8 assistance under subsection (a) of this section or State
9 agency for projects and productions which the Foundation
10 finds will encourage the arts in areas where such assistance
11 will be of value. In making grants to any group pursuant
12 to this subsection, the Foundation shall require matching
13 funds in accordance with the provisions of subsection (a)
14 (3) of this section.

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

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

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

24 (2) any such agency is not complying substantially

1 with the terms and conditions of its State plan approved
2 under this Act; or

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

6 the Foundation shall immediately notify the Secretary of
7 the Treasury and the group or State agency concerned that
8 no further grants will be made under this Act with respect
9 to such group or State agency until there is no longer any
10 default or failure to comply or the diversion has been cor-
11 rected, or, if compliance or correction is impossible, until
12 the group or State repays or arranges the repayment of the
13 Federal funds which have been improperly diverted or ex-
14 pended.

15 **ADVISORY COMMITTEES OR PANELS**

16 **SEC. 7.** The Foundation may appoint persons other than
17 members of the Council to committees or panels concerned
18 with particular regions of the country or with particular
19 aspects of the arts, or both, to advise and consult with the
20 Foundation with respect to the duties of the Foundation and
21 the projects and productions for which financial assistance
22 is sought by groups and States. Such appointments shall
23 be made without regard to the civil service laws and regula-
24 tions. The members of the committees and panels, while
25 engaged in the business of the Foundation pursuant to au-

1 thORIZATION of the Foundation, shall receive compensation at
2 a rate to be fixed by the Foundation, but not exceeding \$75
3 per diem and shall be paid travel expenses, including per
4 diem in lieu of subsistence, as authorized by law (5 U.S.C.
5 73b-2) for persons in the Government service employed
6 intermittently.

7 ADMINISTRATIVE POWERS AND DUTIES OF THE
8 FOUNDATION

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

10 (1) prescribe such rules and adopt such bylaws as
11 it deems necessary to govern the manner of its operation
12 and its organization and personnel, and to implement
13 any of the provisions of the Act;

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

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

23 (4) receive and use funds or marked gifts or prop-
24 erty donated, devised, or bequeathed by others, if such

1 funds are donated, devised, or bequeathed without re-
2 striction other than that they be used in furtherance of
3 one or more of the general purposes of the Foundation;

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

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

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

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

18 (b) The Foundation shall not itself produce or present
19 any project or production.

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

APPROPRIATIONS

1
2 SEC. 9. (a) For the purpose of making grants author-
3 ized in section 6 of this Act, there is hereby authorized to be
4 appropriated for the fiscal year ending June 30, 1965, such
5 sum, not exceeding \$5,000,000, and for each fiscal year
6 thereafter such sum, not exceeding \$10,000,000 annually,
7 as the Congress may determine. The moneys appropriated
8 to the Foundation shall remain available for expenditure for
9 two years following the expiration of the fiscal year for which
10 appropriated.

11 (b) Moneys received by the Foundation under section
12 8(a) (3) and (4) of this Act, shall not be covered into
13 the Treasury as miscellaneous receipts, but shall be kept in a
14 special account, maintained by the Treasury Department, or
15 kept by the Foundation in commercial banking institutions,
16 or invested in securities eligible for trust funds in the District
17 of Columbia, and shall be available to the Foundation for the
18 purposes of this Act.

19 (c) The Chairman of the Council shall determine any
20 payments to be made under this Act and certify to the Sec-
21 retary of the Treasury the amounts thereof. Upon receipt
22 of such certification, the Secretary of the Treasury shall,
23 prior to audit or settlement by the General Accounting Office,
24 pay in accordance with such certification. Sums allotted to

1 any group or State for any fiscal year under this Act and
2 not transferred during that fiscal year shall remain available
3 to such group or State for the same purposes for the next
4 fiscal year in addition to the sums allotted for such next
5 fiscal year.

6 (d) There are hereby authorized to be appropriated
7 such sums as are necessary to administer the provisions of
8 this Act, but in no event shall the amount appropriated in
9 any fiscal year exceed a total of \$75,000.

10 DEFINITIONS

11 SEC. 10. As used in this Act—

12 (a) The term “the arts” means (1) the major art
13 fields including music (instrumental and vocal), drama,
14 dance, folk art, literature, architecture and allied fields,
15 painting, sculpture, photography, graphic and craft arts,
16 industrial design, costume and fashion design, motion pic-
17 tures, television, radio, and tape and sound recording; and
18 (2) the arts related to the presentation, performance, execu-
19 tion, and exhibition of such major art fields.

20 (b) The term “production” means plays (with or with-
21 out music), ballet, dance and choral performances, concerts,
22 recitals, operas, exhibitions, readings, motion pictures, radio,
23 television, and tape and sound recording, and any other
24 activities involving the execution or rendition of the arts

1 and meeting such standards as the Foundation may estab-
2 lish.

3 (c) The term "project" means programs organized by
4 groups, States, and State agencies to carry out the purposes
5 of this Act, including programs to foster American artistic
6 creativity, to train artists, to commission works of art, and
7 to develop and enhance knowledge and understanding of
8 the arts.

9 (d) The term "group" includes any society, institution,
10 organization, association, museum, or establishments, whether
11 or not incorporated.

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