

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3567

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IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, MAY 2), 1994

Received; read twice and referred to the Committee on Environment and  
Public Works

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## AN ACT

To amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “John F. Kennedy Cen-  
5 ter Act Amendments of 1994”.

1 **SEC. 2. FINDINGS, BUREAU, BOARD OF TRUSTEES, AND AD-**  
2 **VISORY COMMITTEE.**

3 (a) FINDINGS.—Section 1 of the John F. Kennedy  
4 Center Act (20 U.S.C. 76h note) is amended—

5 (1) by striking “SECTION 1.” and inserting the  
6 following:

7 **“SECTION 1. SHORT TITLE AND FINDINGS.**

8 “(a) SHORT TITLE.—”; and

9 (2) by adding at the end the following:

10 “(b) FINDINGS.—Congress finds that—

11 “(1) the late John Fitzgerald Kennedy served  
12 with distinction as President of the United States  
13 and as a Member of the Senate and the House of  
14 Representatives;

15 “(2) by the untimely death of John Fitzgerald  
16 Kennedy this Nation and the world have suffered a  
17 great loss;

18 “(3) the late John Fitzgerald Kennedy was par-  
19 ticularly devoted to education and cultural under-  
20 standing and the advancement of the performing  
21 arts;

22 “(4) it is fitting and proper that a living insti-  
23 tution of the performing arts, designated as the Na-  
24 tional Center for the Performing Arts, named in the  
25 memory and honor of this great leader, shall serve

1 as the sole national monument to his memory within  
2 the District of Columbia and its environs;

3 “(5) such a living memorial serves all of the  
4 people of the United States by preserving, fostering,  
5 and transmitting the performing arts traditions of  
6 the people of this Nation and other countries by pro-  
7 ducing and presenting music, opera, theater, dance,  
8 and other performing arts; and

9 “(6) such a living memorial should be housed in  
10 the John F. Kennedy Center for the Performing  
11 Arts, located in the District of Columbia.”.

12 (b) EX OFFICIO TRUSTEES.—

13 (1) IN GENERAL.—Section 2 of such Act (20  
14 U.S.C. 76h) is amended—

15 (A) by striking the section heading and all  
16 that follows before “There is hereby” and in-  
17 serting the following:

18 **“SEC. 2. BOARD OF TRUSTEES.**

19 “(a) ESTABLISHMENT.—”;

20 (B) in the first sentence by inserting “as  
21 the National Center for the Performing Arts, a  
22 living memorial to John Fitzgerald Kennedy,”  
23 after “thereof”;

24 (C) in the second sentence by striking  
25 “Chairman of the District of Columbia Recre-

1           ation Board” and inserting “Superintendent of  
2           Schools of the District of Columbia”; and

3           (D) in the second sentence by striking  
4           “three Members of the Senate” and all that fol-  
5           lows before “ex officio” and inserting “the  
6           chairman and ranking minority member of the  
7           Committee on Public Works and Transpor-  
8           tation of the House of Representatives and 3  
9           additional Members of the House of Represent-  
10          atives appointed by the Speaker of the House of  
11          Representatives, and the chairman and ranking  
12          minority member of the Committee on Environ-  
13          ment and Public Works of the Senate and 3 ad-  
14          ditional Members of the Senate appointed by  
15          the President of the Senate”.

16          (2) EFFECTIVE DATES.—

17           (A) SUPERINTENDENT OF SCHOOLS OF  
18           THE DISTRICT OF COLUMBIA.—The amendment  
19           made by paragraph (1)(C) shall take effect on  
20           the date of expiration of the term of the Chair-  
21           man of the District of Columbia Recreation  
22           Board serving as a trustee of the John F. Ken-  
23           neddy Center for the Performing Arts on the  
24           date of the enactment of this Act.

1           (B) MEMBERS OF CONGRESS.—The  
2           amendment made by paragraph (1)(D) shall  
3           take effect on the date of the enactment of this  
4           Act.

5           (c) GENERAL TRUSTEES.—Section 2(b) of such Act  
6 is amended to read as follows:

7           “(b) GENERAL TRUSTEES.—The general trustees  
8 shall be appointed by the President of the United States  
9 and each such trustee shall hold office as a member of  
10 the Board for a term of 6 years, except that—

11           “(1) any member appointed to fill a vacancy oc-  
12 ccurring before the expiration of the term for which  
13 such member’s predecessor was appointed shall be  
14 appointed for the remainder of such term;

15           “(2) a member shall continue to serve until  
16 such member’s successor has been appointed; and

17           “(3) the term of office of a member appointed  
18 before the date of the enactment of the John F.  
19 Kennedy Center Act Amendments of 1994 shall ex-  
20 pire as designated at the time of appointment.”.

21           (d) ADVISORY COMMITTEE ON THE ARTS.—Section  
22 2(c) of such Act is amended—

23           (1) by inserting “ADVISORY COMMITTEE ON  
24 THE ARTS.—” before “There shall be”;

1           (2) in the first sentence by inserting “of the  
2           United States” after “President” the first place it  
3           appears;

4           (3) in the fifth sentence by striking “cultural  
5           activities to be carried on in” and inserting “cultural  
6           activities to be carried out by”; and

7           (4) in the last sentence by striking all that fol-  
8           lows “compensation” and inserting a period.

9   **SEC. 3. DUTIES OF THE BOARD.**

10          Section 4 of the John F. Kennedy Center Act (20  
11          U.S.C. 76j) is amended by striking the section heading  
12          and all that follows through the period at the end of sub-  
13          section (a) and inserting the following:

14   **“SEC. 4. DUTIES OF THE BOARD.**

15          “(a) PROGRAMS, ACTIVITIES, AND GOALS.—

16               “(1) IN GENERAL.—The Board shall—

17                       “(A) present classical and contemporary  
18                       music, opera, drama, dance, and other perform-  
19                       ing arts from the United States and other coun-  
20                       tries;

21                       “(B) promote and maintain the John F.  
22                       Kennedy Center for the Performing Arts as the  
23                       National Center for the Performing Arts—

24                               “(i) by developing and maintaining a  
25                               leadership role in national performing arts

1 education policy and programs, including  
2 developing and presenting original and in-  
3 novative performing arts and educational  
4 programs for children, youth, families,  
5 adults, and educators designed specifically  
6 to foster an appreciation and understand-  
7 ing of the performing arts;

8 “(ii) by developing and maintaining a  
9 comprehensive and broad program for na-  
10 tional and community outreach, including  
11 establishing model programs for adaptation  
12 by other presenting and educational insti-  
13 tutions; and

14 “(iii) by conducting joint initiatives  
15 with the national education and outreach  
16 programs of the Very Special Arts, an en-  
17 tity affiliated with the John F. Kennedy  
18 Center for the Performing Arts which has  
19 an established program for the identifica-  
20 tion, development, and implementation of  
21 model programs and projects in the arts  
22 for disabled individuals;

23 “(C) strive to ensure that the education  
24 and outreach programs and policies of the John  
25 F. Kennedy Center for the Performing Arts

1 meet the highest level of excellence and reflect  
2 the cultural diversity of the Nation;

3 “(D) provide facilities for other civic activi-  
4 ties at the John F. Kennedy Center for the  
5 Performing Arts;

6 “(E) provide within the John F. Kennedy  
7 Center for the Performing Arts a suitable me-  
8 morial in honor of the late President;

9 “(F) develop, and update annually, a com-  
10 prehensive building needs plan for the existing  
11 features of the John F. Kennedy Center for the  
12 Performing Arts;

13 “(G) plan, design, and construct all capital  
14 projects at the John F. Kennedy Center for the  
15 Performing Arts; and

16 “(H) provide information and interpreta-  
17 tion; all maintenance, repair, and alteration of  
18 the building of the John F. Kennedy Center for  
19 the Performing Arts; and janitorial, security,  
20 and all other services necessary for operating  
21 the building and site of the John F. Kennedy  
22 Center for the Performing Arts.

23 “(2) ADMINISTRATIVE POWERS AND DUTIES.—

24 “(A) AUTHORITY TO ENTER INTO CON-  
25 TRACTS.—The Board, in accordance with appli-



1 cable law, may enter into contracts or other ar-  
2 rangements with, and make payments to, public  
3 agencies or private organizations or persons in  
4 order to carry out the Board's functions under  
5 this Act. Such authority includes utilizing the  
6 services and facilities of other agencies, includ-  
7 ing the Department of the Interior, the General  
8 Services Administration, and the Smithsonian  
9 Institution.

10 “(B) PREPARATION OF BUDGET.—The  
11 Board shall prepare a budget pursuant to sec-  
12 tions 1104, 1105(a), and 1513(b) of title 31,  
13 United States Code.

14 “(C) USE OF AGENCY PERSONNEL.—The  
15 Board may utilize or employ the services of the  
16 personnel of any agency or instrumentality of  
17 the Federal Government or the District of Co-  
18 lumbia, with the consent of the agency or the  
19 instrumentality concerned, upon a reimbursable  
20 basis, and utilize voluntary and uncompensated  
21 personnel.

22 “(D) SELECTION OF CONTRACTORS.—In  
23 carrying out its duties under this Act, the  
24 Board may negotiate any contract for an envi-  
25 ronmental system for, a protection system for,

1 or a repair to, maintenance of, or restoration of  
2 the John F. Kennedy Center for the Perform-  
3 ing Arts with selected contractors and award  
4 the contract on the basis of contractor quali-  
5 fications as well as price.

6 “(E) MAINTENANCE OF HALLS.—The  
7 Board shall maintain the Hall of Nations, the  
8 Hall of States, and the Grand Foyer of the  
9 John F. Kennedy Center for the Performing  
10 Arts in a manner that is suitable to a national  
11 performing arts center that is operated as a  
12 Presidential memorial and in a manner consist-  
13 ent with other national Presidential memorials.

14 “(F) MAINTENANCE OF GROUNDS.—The  
15 Board shall manage and operate the grounds of  
16 the John F. Kennedy Center for the Perform-  
17 ing Arts in a manner consistent with National  
18 Park Service regulations and agreements in ef-  
19 fect on the date of enactment of the John F.  
20 Kennedy Center Act Amendments of 1994. No  
21 change in the management and operation of  
22 such grounds may be made without the express  
23 approval of the Secretary of the Interior and of  
24 the Congress.”.

1 **SEC. 4. OFFICERS AND EMPLOYEES; REVIEW OF BOARD AC-**  
2 **TIONS.**

3 (a) SOLICITATION AND ACCEPTANCE OF GIFTS.—  
4 Section 5 of the John F. Kennedy Center Act (20 U.S.C.  
5 76k) is amended—

6 (1) by striking the section heading and all that  
7 follows before “The Board is” and inserting the fol-  
8 lowing:

9 **“SEC. 5. POWERS OF THE BOARD.**

10 **“(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—**  
11 **”;** and

12 (2) in subsection (a) by striking “Smithsonian  
13 Institution” and inserting “John F. Kennedy Center  
14 for the Performing Arts, as a bureau of the Smith-  
15 sonian Institution,”.

16 (b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—  
17 Section 5(b) of such Act is amended to read as follows:

18 **“(b) APPOINTMENT OF OFFICERS AND EMPLOY-**  
19 **EES.—**

20 **“(1) CHAIRPERSON AND SECRETARY.—**The  
21 Board shall appoint and fix the compensation and  
22 duties of a Chairperson of the John F. Kennedy  
23 Center for the Performing Arts, who shall serve as  
24 the chief executive officer of the Center, and a Sec-  
25 retary of the John F. Kennedy Center for the Per-  
26 forming Arts. The Chairperson and Secretary shall

1 be well qualified by experience and training to per-  
2 form the duties of their offices.

3 “(2) SENIOR LEVEL EXECUTIVE AND OTHER  
4 EMPLOYEES.—The Chairperson of the John F. Ken-  
5 nedy Center for the Performing Arts may appoint—

6 “(A) a senior level executive who, by virtue  
7 of the individual’s background, shall be well  
8 suited to be responsible for facilities manage-  
9 ment and services and who may, without regard  
10 to the provisions of title 5, United States Code,  
11 be appointed and compensated with appro-  
12 priated funds, except that such compensation  
13 may not exceed the maximum rate of pay for  
14 level IV of the Executive Schedule; and

15 “(B) such other officers and employees of  
16 the John F. Kennedy Center for the Perform-  
17 ing Arts as may be necessary for the efficient  
18 administration of the functions of the Board.”.

19 (c) TRANSFERS; REVIEW OF BOARD ACTIONS.—Sec-  
20 tion 5 of such Act is amended by striking subsection (c)  
21 and inserting the following:

22 “(c) TRANSFER OF PROPERTY.—Not later than Oc-  
23 tober 1, 1995, such property, liabilities, contracts, records,  
24 and unexpended balances of appropriations, authoriza-  
25 tions, allocations, and other funds employed, held, used,

1 arising from, available to, or to be made available in con-  
2 nection with the functions transferred from the Secretary  
3 of the Interior pursuant to the amendments made by the  
4 John F. Kennedy Center Act Amendments of 1994 shall  
5 be transferred, subject to section 1531 of title 31, United  
6 States Code, to the Board as the Board and the Secretary  
7 of the Interior may determine appropriate. Unexpended  
8 funds transferred pursuant to this subsection shall be used  
9 only for the purposes for which, and subject to the terms  
10 under which, the funds were originally authorized and ap-  
11 propriated.

12 “(d) TRANSFER OF PERSONNEL.—

13 “(1) IN GENERAL.—Employees of the National  
14 Park Service assigned to duties related to those  
15 functions being undertaken by the Board shall be  
16 transferred with their functions to the Board not  
17 later than October 1, 1995.

18 “(2) RIGHTS AND BENEFITS.—Transferred em-  
19 ployees shall remain in the Federal competitive serv-  
20 ice retaining all rights and benefits provided under  
21 title 5, United States Code. For a period of not less  
22 than 3 years, transferred employees shall retain the  
23 right of priority consideration under merit promotion  
24 procedures or lateral reassignment for all vacancies  
25 within the Department of the Interior.

1           “(3) PARK POLICE.—All United States Park  
2 Police and Park Police guard force employees as-  
3 signed to the John F. Kennedy Center for the Per-  
4 forming Arts shall remain employees of the National  
5 Park Service.

6           “(4) COSTS.—All usual and customary costs as-  
7 sociated with any adverse action or grievance pro-  
8 ceeding resulting from the transfer of functions  
9 under this section that are incurred before October  
10 1, 1995, shall be paid from amounts appropriated to  
11 the John F. Kennedy Center for the Performing  
12 Arts.

13           “(5) REORGANIZATION AUTHORITY.—Nothing  
14 contained in this section shall be deemed to prohibit  
15 the Board from reorganizing functions at the John  
16 F. Kennedy Center for the Performing Arts in ac-  
17 cordance with laws governing such reorganizations.

18           “(e) REVIEW OF BOARD ACTIONS.—The actions of  
19 the Board relating to performing arts and to payments  
20 made or directed to be made by the Board from any trust  
21 funds shall not be subject to review by any officer or agen-  
22 cy other than a court of law.”.

23 **SEC. 5. REVIEWS, AUDITS, AND CLAIMS.**

24           Section 6 of the John F. Kennedy Center Act (20  
25 U.S.C. 76l) is amended—

1           (1) in subsection (c) by striking “its” and in-  
2           serting “the Board’s”; and

3           (2) by striking subsections (e) and (f) and in-  
4           serting the following:

5           “(d) AUDIT OF ACCOUNTS.—At least once every 3  
6           years, the Comptroller General shall review and audit the  
7           accounts of the John F. Kennedy Center for the Perform-  
8           ing Arts for the purpose of examining expenditures of  
9           funds appropriated under authority provided by this Act.

10          “(e) INSPECTOR GENERAL.—The functions of the  
11          Board funded by amounts appropriated pursuant to sec-  
12          tion 12 of this Act shall be subject to the requirements  
13          of the Inspector General Act of 1978. The Inspector Gen-  
14          eral of the Smithsonian Institution is authorized to carry  
15          out the requirements of such Act on behalf of the Board  
16          on a reimbursable basis.

17          “(f) PROPERTY AND PERSONNEL COMPENSATION.—

18                 “(1) IN GENERAL.—The Board may procure in-  
19                 surance against any loss in connection with the  
20                 property of the Board and other assets administered  
21                 by the Board. The Board’s employees and volunteers  
22                 shall be deemed civil employees of the United States  
23                 within the meaning of the term ‘employee’ as defined  
24                 in section 8101 of title 5, United States Code; ex-  
25                 cept that the Board shall continue to provide bene-

1 fits with respect to any disability or death resulting  
2 from a personal injury to a nonappropriated fund  
3 employee of the Board sustained while in the per-  
4 formance of the employee's duties for the Board  
5 pursuant to the workers compensation statute of the  
6 jurisdiction in which the John F. Kennedy Center  
7 for the Performing Arts is located. Such disability or  
8 death benefits, whether under such workers com-  
9 pensation statute or chapter 81 of title 5, United  
10 States Code, shall continue to be the exclusive liabil-  
11 ity of the Board and the United States with respect  
12 to all employees and volunteers of the Board.

13 “(2) FEDERAL TORT CLAIMS.—Notwithstanding  
14 paragraph (1), no employee of the Board may bring  
15 suit against the United States under the Federal  
16 tort claims procedure of chapter 171 of title 28,  
17 United States Code, for disability or death resulting  
18 from personal injury sustained while in the perform-  
19 ance of the employee's duties for the Board.

20 “(g) SETTLEMENTS, AWARDS, AND JUDGMENTS.—  
21 Any settlement, award, or judgment made or entered into  
22 pursuant to chapter 171 of title 28, United States Code,  
23 arising from any act or omission of an employee of  
24 the Board in the performance of a  
25 nonappropriated fund activity shall be paid only from



1 funds available to the Board for its performing arts activi-  
2 ties.”.

3 **SEC. 6. TECHNICAL AMENDMENTS.**

4 Section 10 of the John F. Kennedy Center Act (20  
5 U.S.C. 76p) is amended—

6 (1) by striking “he” and inserting “the Sec-  
7 retary”; and

8 (2) by striking “his” and inserting “the Sec-  
9 retary’s”.

10 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

11 The John F. Kennedy Center Act (20 U.S.C. 76h-  
12 76q) is amended by adding at the end the following:

13 **“SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

14 “(a) MAINTENANCE, REPAIR, AND SECURITY.—  
15 There is authorized to be appropriated to the Board  
16 \$12,000,000 per fiscal year for each of fiscal years 1995  
17 through 1999 to carry out subparagraph (H) of section  
18 4(a)(1).

19 “(b) CAPITAL PROJECTS.—There is authorized to be  
20 appropriated to the Board \$9,000,000 per fiscal year for  
21 each of fiscal years 1995 through 1999 to carry out sub-  
22 paragraphs (F) and (G) of section 4(a)(1).

23 “(c) LIMITATION ON USE OF FUNDS.—No funds ap-  
24 propriated pursuant to this section may be used for the  
25 direct expenses incurred in the production of performing

1 arts attractions, or for personnel who are involved in per-  
2 forming arts administration (including supplies and equip-  
3 ment used by such personnel), or for production, staging,  
4 public relations, marketing, fundraising, ticket sales, and  
5 education. However, funds appropriated directly to the  
6 Board shall not affect nor diminish other Federal funds  
7 sought for performing arts functions and may be used to  
8 reimburse the Board for that portion of costs that are  
9 Federal costs reasonably allocated to building services and  
10 theater maintenance and repairs.”.

11 **SEC. 8. DEFINITIONS.**

12 The John F. Kennedy Center Act (20 U.S.C. 76h-  
13 76q) is amended by adding at the end the following:

14 **“SEC. 13. DEFINITIONS.**

15 “For the purposes of this Act, the following defini-  
16 tions apply:

17 “(1) CAPITAL PROJECTS.—The term ‘capital  
18 projects’ means capital repairs, replacements, im-  
19 provements, rehabilitations, alterations, and modi-  
20 fications to the existing features of the building and  
21 site of the John F. Kennedy Center for the Perform-  
22 ing Arts, including the theaters, garage, plaza, and  
23 building walkways.

24 “(2) MAINTENANCE, REPAIR, AND SECURITY  
25 SERVICES.—The term ‘maintenance, repair, and se-

1 curity services' means all services and equipment  
2 necessary to maintain and operate the existing fea-  
3 tures of the building and site of the John F. Ken-  
4 nedy Center for the Performing Arts, including the  
5 theater, garage, plaza, and building walkways in a  
6 manner consistent with requirements for high qual-  
7 ity operations.

8           “(3) BUILDING AND SITE OF THE JOHN F.  
9 KENNEDY CENTER FOR THE PERFORMING ARTS.—  
10 The terms ‘building and site of the John F. Ken-  
11 nedy Center for the Performing Arts’ and ‘grounds  
12 of the John F. Kennedy Center for the Performing  
13 Arts’ mean the site in the District of Columbia on  
14 which the John F. Kennedy Center building is con-  
15 structed and which extends to the line of the west  
16 face of the west retaining walls and curbs of the  
17 Inner Loop Freeway on the east, the north face of  
18 the north retaining walls and curbs of the Theodore  
19 Roosevelt Bridge approaches on the south, the east  
20 face of the east retaining walls and curbs of Rock  
21 Creek Parkway on the west, and the south curbs of  
22 New Hampshire Avenue and F Street on the north,  
23 as generally depicted on the map entitled ‘Transfer  
24 of John F. Kennedy Center for the Performing  
25 Arts’, numbered 844/82563, and dated April 20,

1 1994, which shall be on file and available for public  
2 inspection in the office of the National Capital Re-  
3 gion, National Park Service, Department of the In-  
4 terior.”.

5 **SEC. 9. RULES AND REGULATIONS.**

6 (a) **AUTHORITY TO PRESCRIBE.**—Section 5(a) of the  
7 Act of October 24, 1951 (40 U.S.C. 193r) is amended—

8 (1) by striking “Institution and” and inserting  
9 “Institution,”; and

10 (2) by inserting “, and the Trustees of the  
11 John F. Kennedy Center for the Performing Arts,”  
12 after “National Gallery of Art”.

13 (b) **AUTHORITY TO SUSPEND.**—Section 8 of such Act  
14 (40 U.S.C. 193u) is amended by striking “the Secretary  
15 of the Smithsonian Institution or the Trustees of the Na-  
16 tional Gallery of Art or” each place it appears and insert-  
17 ing “the Secretary of the Smithsonian Institution, the  
18 Trustees of the National Gallery of Art, the Trustees of  
19 the John F. Kennedy Center for the Performing Arts, or”.

20 (c) **BUILDINGS AND GROUNDS DEFINED.**—Section 9  
21 of such Act (40 U.S.C. 193v) is amended by adding at  
22 the end the following:

23 “(3) The site of the John F. Kennedy Center  
24 for the Performing Arts, which shall be held to ex-  
25 tend to the line of the west face of the west retain-

1 ing walls and curbs of the Inner Loop Freeway on  
2 the east, the north face of the north retaining walls  
3 and curbs of the Theodore Roosevelt Bridge ap-  
4 proaches on the south, the east face of the east re-  
5 taining walls and curbs of Rock Creek Parkway on  
6 the west, and the south curbs of New Hampshire  
7 Avenue and F Street on the north, as generally de-  
8 picted on the map entitled 'Transfer of John F.  
9 Kennedy Center for the Performing Arts', numbered  
10 844/82563, and dated April 20, 1994, which shall be  
11 on file and available for public inspection in the of-  
12 fice of the National Capital Region, National Park  
13 Service, Department of the Interior.'.

Passed the House of Representatives May 10, 1994.

Attest: DONNALD K. ANDERSON,  
*Clerk.*