

Opinion No. 67-30

February 17, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Frank Waters Arts Coordinator The New Mexico Arts Commission 120 East Marcy, Suite 6 Santa Fe, New Mexico

QUESTION

FACTS

Junior High School students in Portales, New Mexico are painting and shipping a panel which is to be a part of the fence surrounding the John F. Kennedy Center for the Performing Arts in Washington, D.C. The Center, which was designated by an Act of Congress in 1964, is receiving such artistic donations from children in every state and in several foreign countries. The cost of painting and shipping the panel will amount to \$ 35.25. The art students at Portales Junior High School have organized themselves into a "Fence Committee". That Committee has requested that the New Mexico Arts Commission defray the expense of painting and shipping the panel.

QUESTION

May the New Mexico Arts Commission defray such expense?

CONCLUSION

No.

OPINION

{*37} ANALYSIS

The constitutional section which controls the question you have asked is Article IX, Section 14 of the Constitution of New Mexico. It states:

"Neither the state, nor any county, school district, or municipality, except as otherwise provided in this Constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons."

It is obvious from the facts you have sent this office that the \$ 35.25 which would be given by your office to the Portales Junior High School students would simply be a

donation. Accordingly, under the applicable constitutional section, such a donation may not be made by your office to those students.

By: Donald W. Miller

Assistant Attorney General