

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Rosenberg, Stan (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing the massachusetts cultural trust fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Rosenberg, Stan (SEN)	Hampshire and Franklin

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02015 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT ESTABLISHING THE MASSACHUSETTS CULTURAL TRUST FUND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The general court finds: that it is in the interest of the commonwealth to promote the
2 prosperity and general welfare of all citizens by enhancing the vitality of our cities, towns and
3 neighborhoods; that art, history, and humanities contribute immeasurably to the quality of life, the
4 economy, tourism industry and education; that cultural organizations throughout the commonwealth play
5 an invaluable role in ensuring that the benefits of the art, history, and humanities are extended to the
6 people and communities of the commonwealth; that these vital cultural organizations have been
7 undercapitalized and have been subject to inconsistent funding as a result of fluctuating economic
8 conditions; and that the establishment of a permanent, interest generating fund as an additional source of
9 revenue for nonprofit art, history, and humanities organizations, specifically for the building of
10 endowments, the improvement of institutional and financial stability, and investment in arts related
11 economic development projects is essential to quality of life in the commonwealth.

12 SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after section 52, as
13 appearing in the 2004 Official Edition, the following section:-

14 Section 52A. (a) There is hereby established upon the books of the commonwealth a separate
15 trust fund to be known as the Massachusetts Cultural Trust Fund, the purpose of which shall be to
16 finance, when fully vested, the operations of the Massachusetts cultural council, established in section 52,
17 and the activities and programs of organizations, profit or non profit, public or private, within the

18 commonwealth and concerned with the arts, history, humanities, interpretive sciences. Said fund shall be
19 considered "fully vested" when the treasurer certifies to the comptroller, the fiscal affairs division, the
20 house and senate committees on ways and means, the joint committee on tourism arts and cultural
21 development and the joint committee on economic development and emerging technologies that the fund
22 has accrued \$1,000,000,000 of principal. Said fund shall

23 (b) In conjunction with the preparation of the commonwealth's comprehensive annual financial report,
24 the comptroller shall prepare and issue an annual report detailing the revenues and expenditures of the
25 fund.

26 (c) The fund shall be managed by the state treasurer. All transactions affecting the fund including, but not
27 limited to, all amounts credited to and all expenditures, transfers or allocations made from the fund, shall
28 be recorded by subsidiary on the Massachusetts management accounting and reporting system.

29 (d) The trust fund shall be classified by the comptroller as a non-budgeted fund of the commonwealth.
30 Amounts credited to the fund, including both principal and earnings, shall not be subject to the calculation
31 of the consolidated net surplus pursuant to sections 2H and 5C of chapter 29.

32 (e) Earnings and interest credited to said fund shall be expended, when the fund is fully vested, by the
33 Massachusetts Cultural Council, in accordance with the provisions of the strategic plan for the creative
34 economy, pursuant to the provisions of paragraph (i), to supplant and supersede the appropriations of the
35 Massachusetts Cultural Council in the preceding fiscal year.

36 (f) The council shall administer the expenditure of the income, earnings and interest in the Massachusetts
37 Cultural Trust Fund, when fully vested, to (i) finance the operations and grant-making programs of the
38 council and (ii) finance the facilities, activities and programs of Massachusetts-based organizations in the
39 creative economy industries, both for-profit and non-profit, concerned with the arts, humanities,
40 interpretive sciences, community arts and local arts and (iii) support and leverage investment in the
41 creative economy, including but not limited to grants, loans, and equity investments in galleries and
42 museums, arts and cultural-based commercial enterprises, centers of excellence in the arts, organizations
43 and educational institutions, and real estate developments that include both affordable and market rate
44 housing or studio space for artists, including but not limited to mill rehabilitation, and so-called second-
45 story investments, artist live-work space, and the development of gallery streets.

46 (g) No more than 20 per cent of the moneys transferred to the fund each year shall be deposited within
47 the Massachusetts Development Finance Agency, created pursuant to chapter 23G. The funds shall be
48 invested by the Massachusetts Development Finance Agency in projects that further the arts including,
49 but not limited to, galleries and museums, arts and cultural-based companies, organizations and
50 educational institutions, and real estate developments that include housing or studio space for artists. The

51 monies may be used to make equity investments or loans. Net earnings on funds so invested shall be
52 remitted to the Massachusetts Cultural Trust Fund to be reinvested or distributed to the Massachusetts
53 cultural council. The Massachusetts Development Finance Agency shall be allowed to charge related
54 expenses to the fund including staff time and overhead and out of pocket expenses. Funds managed by
55 the Massachusetts Development Finance Agency shall be used to further the mission of the Massachusetts
56 Cultural Trust Fund and as opposed to maximizing financial returns.

57 (h) The Massachusetts Cultural Trust Fund shall be credited with (1) all amounts transferred pursuant to
58 subparagraph (1) of section 5C of chapter 29; (2) any appropriation, grant, gift or other contribution
59 explicitly made to the trust fund; (3) income derived from the investment of amounts credited to the trust
60 fund.

61 (i) The Massachusetts Cultural Council shall, on annual basis, not later than December 1, publish a
62 strategic plan on the cultural economy recommending to the Massachusetts General Court the most
63 effective and prudent uses of the income, earnings and interest available in said trust fund for the
64 financing of the operations of the Massachusetts Cultural Council and the financing of the facilities,
65 activities and programs of organizations, both for-profit and non-profit, within the Commonwealth
66 concerned with the arts, humanities, interpretive sciences, community arts and local arts.

67 (j) Said strategic plan shall outline the role of state agencies as they support the creative economy
68 industries, including a projection of any future costs for the Massachusetts Cultural Council,
69 annualization, and savings resulting from any financing recommendations. Said financing
70 recommendations shall not be predicated upon unexpended amounts from the current fiscal year being
71 automatically made available for re-appropriation for the same purpose in the subsequent fiscal year, but
72 nothing contained herein shall preclude the council from making a recommendation to re-appropriate any
73 unexpended amounts for the same or any other purpose authorized by this chapter.

74 (k) Said strategic plan shall give priority to the funding of annualization for programs and services
75 obligated in prior fiscal years before recommending financing for the expansion of services or the
76 provision of new services.

77 (l) Said strategic plan shall evaluate the performance and effectiveness of all programs funded by the
78 income, earnings, and interest of said trust fund. The Massachusetts Cultural shall undertake a sunset
79 review, so-called, of any such program or service that does not achieve performance expectations. Said
80 commission shall monitor the extent to which funding from the trust complements or expands upon
81 previously implemented arts and culture programs and services in the Commonwealth.

82 (m) The comptroller shall promptly certify to the fiscal affairs division, the house and senate committees
83 on ways and means, the joint committee on tourism, arts, and cultural development and the joint

84 committee on economic development and emerging technologies the amount and date when any
85 payments are made or credited to the fund.

86 (n) Not later than October 31 of each year, the comptroller shall certify to the treasurer, the fiscal affairs
87 division, the house and senate committees on ways and means, the joint committee on tourism, arts and
88 cultural development and the joint committee on economic development and emerging technologies the
89 balance in the Massachusetts Cultural Trust Fund and the total return generated by the principal of the
90 trust fund during the prior 12 month period ending on June 30.

91 SECTION 3. Chapter 29 of the General Laws is hereby amended by striking out section 5C, as so
92 appearing, and inserting in place thereof the following section:-

93 Section 5C. The comptroller shall annually, on or before October 31, certify to the commissioner of
94 administration the amount of the consolidated net surplus in the budgetary funds at the close of the
95 preceding fiscal year. The amounts so certified shall be disposed as follows:

96 (1) an amount equal to \$100,000,000 shall be transferred to the Massachusetts Cultural Trust Fund on an
97 annual basis until the state treasurer certifies to the comptroller, the fiscal affairs divisions the house and
98 senate committees on ways and means, the joint committee on tourism arts and cultural development and
99 the joint committee on economic development and emerging technologies that the fund has accrued
100 \$1,000,000,000 in principal.

101 (2) an amount equal to 1/2 of 1 per cent of the total revenue from taxes in the preceding fiscal year shall
102 be available to be used as revenue for the current fiscal year and 1/2 of 1 per cent of the total revenue
103 from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund;

104 (3) any remaining amount of the consolidated net surplus after amounts made available in clauses (1) and
105 (2) shall be transferred to the Stabilization Fund; and

106 (4) transfers specified in this section shall be made from the undesignated fund balances in the budgetary
107 funds proportionally from said undesignated fund balances; but, the transfer shall not cause a deficit in
108 any of those funds.