

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

O'Leary, Robert (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 Relative to Funding Public Institutions of Higher Education .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
O'Leary, Robert (SEN)	Cape and Islands

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO FUNDING PUBLIC INSTITUTIONS OF HIGHER EDUCATION .

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.

2 (a) Section 9 of chapter 15A of the general laws, as appearing in the 2006 Official Edition, is hereby
3 amended by striking out the third paragraph.

4 (b) Section 22 of said chapter 15A, as so appearing, is hereby amended by inserting after the first
5 paragraph the following: -

6 The board of trustees of each state and community college shall, for each academic year
7 beginning on or after July 1, 2009, fix and establish tuition and fee rates for each college. In-state tuition
8 rates for the college shall preserve affordability for residents of the commonwealth. Out-of-state tuition
9 rates shall appropriately balance the financial needs of the college with the need to be competitive with
10 peer institutions regionally and nationwide

11 For each academic year beginning on or after July 1, 2009, all tuition and fees received by a state
12 or community college shall be retained by the board of trustees of each state or community college in a
13 revolving trust fund or funds and shall be expended by the board of trustees of the state or community
14 college. Every such trust fund shall be established in accordance with and subject to the requirements
15 of section 14 of chapter 73 of the general laws Any balance remaining in the trust fund or funds at the
16 end of the fiscal year shall continue to be held in said trust fund or funds, shall remain available for
17 expenditure in subsequent fiscal years, and shall not revert to the general fund. All such trust funds
18 shall be subject to audit by the state auditor.

19

20 Notwithstanding any general or special law to the contrary, unless the state appropriation is less
21 than the previous fiscal year's appropriation, the rate of increase for in-state tuition and general fees
22 shall not exceed the 3-year average of the consumer price index for Massachusetts (CPI). Each college
23 may request a higher rate of increase within parameters and procedures set by the board of higher
24 education, in conjunction with the presidents of the state and community colleges and upon the
25 approval of the board of higher education. In determining approval, the board shall take into
26 consideration the overall well-being of the institution, the quality of the academic programs, multiple
27 years of underfunding of the institutions, any 9C cuts, so-called, that may have been instituted, and the
28 additional financial burden on the student population of the institutions. Should the state appropriation
29 be less than the previous fiscal year appropriation, the institutions shall first utilize not less than 25% of
30 the combined total of their unrestricted reserve funds, including the student charges stabilization fund
31 established pursuant to this act. For the purposes of this section, unrestricted reserves shall not include
32 funds from auxiliary enterprise activities, grants and contracts, continuing education programs, gifts or
33 plant funds. Following this, should their funding level still fall short of the previous year's appropriation,
34 the institutions may increase student charges to attain the level of the previous fiscal year's
35 appropriation plus the 3 year average of the consumer price index.

36

37 Insofar as is practicable, the final rates of student charges shall be established for the
38 subsequent academic year no later than 15 days prior to the deadline for submission of state and
39 federal financial aid applications by students attending institutions of higher education.

40

41 For employees of any state or community college who, after July 1, 2009, are paid from tuition
42 retained pursuant to this section, fringe benefits shall be funded as if those employees' salaries were
43 supported by state appropriations. This paragraph shall apply only to fringe benefits associated with
44 salaries paid from tuition retained by the board of trustees of a state or community college as a direct
45 result of the authority granted by the preceding paragraph of this section..

46

47 Notwithstanding the provisions of this section to the contrary, the board of trustees of a state or
48 community college may fix and establish a tuition rate and charges reduction for residents of bordering
49 states to not less than 1 and ½ times the institution's in-state tuition and fee rates, if it determines that
50 the institution is below enrollment capacity and the projected cost to the institution and the
51 commonwealth of the reduction would be minimal when taking into account the projected enrollment
52 growth associated with such an adjustment. The board of trustees shall seek reciprocal arrangements
53 from bordering states where no such tuition reduction is available for residents of the commonwealth.

54

55 (c) Section 1A of chapter 75 of the general laws, as so appearing, is hereby amended by striking out
56 clause (p) in the fifth paragraph and inserting in place thereof, the following clause: -

57 (p) to fix and establish tuition rates of said university and to retain such tuition in accordance
58 with this section

59

60 (d) Said section 1A of said chapter 75, as so appearing, is hereby further amended by inserting after the
61 fifth paragraph the following: -

62 The board of trustees shall, for each academic year beginning on or after July 1, 2009, fix and
63 establish tuition and fee rates for the university. In-state tuition rates shall preserve affordability for
64 residents of the commonwealth. Out-of-state tuition rates shall appropriately balance the financial
65 needs of the university with the need to be competitive with peer institutions regionally and
66 nationwide.

67 For each academic year beginning on or after July 1, 2009, all tuition and fees received by the
68 university shall be retained by the board of trustees in a revolving trust fund or funds and all be
69 expended as the board of trustees may direct for the operation and support of the university . Each
70 such trust fund shall be established with and subject to the requirements of section 11. Any balance in
71 said trust fund or funds at the end of the fiscal year shall continue to be held in said trust fund or funds,
72 shall remain available for expenditure in subsequent fiscal years, and shall not revert to the general
73 fund. Any such trust funds shall be subject to audit by the state auditor.

74

75 Notwithstanding any general or special law to the contrary, unless the state appropriation is less
76 than the previous fiscal year's appropriation, the rate of increase for in-state tuition and general fees
77 shall not exceed the 3-year average of the consumer price index for Massachusetts (CPI). The university
78 may request a higher rate of increase within parameters and procedures set by the secretary of
79 education, in conjunction with the board of trustees of the university and the president of the university
80 and upon the approval of the secretary of education. In determining approval, the secretary shall take
81 into consideration the overall well-being of the institution, the quality of the academic programs,
82 multiple years of underfunding of the institutions, any 9C cuts, so-called, that may have been instituted,
83 and the additional financial burden on the student population of the institution. Should the state
84 appropriation be less than the previous fiscal year appropriation, the university shall first utilize not less
85 than 25% of the combined total of their unrestricted reserve funds, including the student charges
86 stabilization fund established pursuant to this act. For the purposes of this section, unrestricted
87 reserves shall not include funds from auxiliary enterprise activities, grants and contracts, continuing
88 education programs, gifts or plant funds. Following this, should their funding level still fall short of the
89 previous year's appropriation, the institutions may increase student charges to attain the level of the
90 previous fiscal year's appropriation plus the 3 year average of the consumer price index.

91

92 Insofar as is practicable, the final rates of student charges shall be established for the
93 subsequent academic year no later than 15 days prior to the deadline for the submission of state and
94 federal financial aid applications by students attending institutions of higher education as set forth in
95 section 5.

96

97 For employees of the university who, after July 1, 2009, are paid from tuition retained pursuant
98 to this section, fringe benefits shall be funded as if those employees' salaries were supported by state
99 appropriations. This paragraph shall apply only to fringe benefits associated with salaries paid from
100 tuition retained by the board of trustees as a direct result of the authority granted by the preceding
101 paragraph of this section.

102

103 Notwithstanding the provisions of this section to the contrary, the board of trustees of the
104 university may fix and establish a tuition rate and charges reduction for residents of bordering states to
105 not less than 1 and ½ times the institution's in-state tuition and fee rates if it determines that the
106 institution is below enrollment capacity and the projected cost to the institution and the commonwealth
107 of the reduction would be minimal when taking into account the projected enrollment growth associated
108 with such adjustment. The board of trustees shall seek reciprocal arrangements from bordering states
109 where no such tuition reduction is available for residents of Massachusetts.

110

111 (d) Said chapter 15A is hereby amended by adding, after section 41, the following section: -

112

113 Section 42. (a) Notwithstanding any general or special law to the contrary, each community
114 college, each state college and the university of Massachusetts shall create at the institution a
115 reserve fund, hereinafter referred to as the "student charges stabilization fund", for their
116 respective institution. There shall be deposited annually into the student charges stabilization
117 fund of each institution the following: (1) any moneys which, within 60 days following the end of
118 the fiscal year, the institution certifies to the state comptroller are moneys that were
119 appropriated to the institution for that fiscal year and that were not expended during, and
120 remain unencumbered for expenditure in respect of, that fiscal year; provided, that
121 notwithstanding any general or special law to the contrary, all such moneys shall remain
122 available for expenditure, without further appropriation, in subsequent fiscal years and shall not
123 revert to the General Fund; and provided further that the state comptroller shall transfer any
124 such moneys remaining in the state treasury to the institution within 30 days of receipt of the
125 institution's certification; (2) moneys that are appropriated to an institution which are required
126 by the legislature to be deposited into the institutions student charges stabilization fund; and (3)

127 other moneys that an institution may elect to deposit into its student charges stabilization fund,
128 including student tuition and fee revenue. Student charges stabilization fund moneys shall be
129 deposited in an interest bearing account credited to its respective institution.

130 (b) Each institution shall deposit 5 per cent of any growth in state appropriation and tuition and
131 fees from the prior year into their student charges stabilization fund.

132 (c) The board of trustees at each community college, state college and the university may, in a
133 fiscal year and upon the vote of the board, expend moneys in its student charges stabilization
134 fund whenever in any such fiscal year the moneys made available to the institution do not meet
135 the commonwealth's annual full funding obligations with respect to the operating requirements
136 of the institution set forth in section 1. Among the uses as the boards of trustees of each state
137 or community college or the university, shall direct for the operation and support of the
138 institution, the moneys shall first be used to reduce the need for increases in tuition and fees
139 and to mitigate such increases should they become necessary.

140

141 (e) Section 19 of chapter 15A, as so appearing, is hereby amended by inserting after the second
142 paragraph the following: -

143 The commonwealth shall bear the cost of providing any waivers granted under this section; provided
144 further, that institutions shall not be required, on a year to year basis to grant waivers of a total value
145 greater than those granted during the 2007 academic year.

146

147 (f) Notwithstanding the provisions of this section to the contrary, the Massachusetts College of Art and
148 Design and the Massachusetts Maritime Academy shall be governed by section 25 of chapter 45 of the
149 acts of 2005.

150

151 (g) The secretary of education shall undertake a review of the tuition retention program not later than
152 July 1, 2014. Within said review, the secretary shall make any recommendations as to legislative
153 changes to the program, including but not limited to, the repeal of said program.