

ASSEMBLY, No. 48

STATE OF NEW JERSEY

209th LEGISLATURE

INTRODUCED MAY 11, 2000

Sponsored by:

Assemblyman LEONARD LANCE
District 23 (Warren, Hunterdon and Mercer)
Assemblywoman ROSE MARIE HECK
District 38 (Bergen)

Co-Sponsored by:

Assemblymen Bagger, Asselta, Bateman, Assemblywomen Crecco, Gill,
Assemblymen Gusciora, Blee, Senators Kyrillos, Kenny, Bucco, Bryant,
Adler, Bark, Kavanaugh and Turner

SYNOPSIS

Establishes New Jersey Cultural Trust.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/30/2000)

1 AN ACT establishing the New Jersey Cultural Trust and supplementing
2 Title 52 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. This act shall be known and may be cited as the “New Jersey
8 Cultural Trust Act.”

9
10 2. The Legislature finds and declares that:

11 a. Arts, history, and humanities contribute immeasurably to the
12 quality of life in New Jersey, to the tourism industry and the economy,
13 to the health and vitality of our cities, towns, and neighborhoods, to
14 sound education, to the teaching of tolerance and understanding, and
15 to the celebration of our rich cultural diversity and identity.

16 b. Hundreds of non-profit cultural organizations in this State play
17 an invaluable role in ensuring that the benefits of the arts, history, and
18 humanities are extended to the people and communities of New Jersey.

19 c. These non-profit cultural organizations work diligently and
20 responsibly to carry out their vital missions. However, as a whole,
21 they are undercapitalized, which makes them vulnerable to economic
22 downturns.

23 Therefore, in order to ensure a stable and healthy cultural climate
24 in this State that is sustainable for years to come and under fluctuating
25 economic conditions, the Legislature hereby creates the New Jersey
26 Cultural Trust and directs the establishment of a permanent, interest-
27 generating fund to be an additional source of revenue to non-profit
28 arts, history, and humanities organizations, specifically for the building
29 of endowments, the improvement of institutional and financial stability,
30 and the capital improvement of cultural facilities.

31
32 3. The following words or terms as used in this act shall have the
33 following meaning, unless a different meaning clearly appears from the
34 context:

35 “Account” means the New Jersey Cultural Trust Account in the
36 General Fund established by section 8 of this act.

37 “Board” means the Board of Trustees established by section 5 of
38 this act.

39 “Capital facilities projects” means those projects in New Jersey of
40 a qualified organization that construct, expand, renovate, plan for,
41 repair, rehabilitate, restore, adaptively re-use, purchase, effectuate
42 long-term leaseholds on, replace, relocate, or otherwise improve
43 cultural or historical property and facilities, including any work
44 relating to providing access thereto for persons with disabilities. The
45 term includes the acquisition of an interest in real property and
46 includes the repair and replacement of fixtures.

1 “Commission” means the New Jersey Historical Commission
2 established pursuant to N.J.S.18A:73-21 et seq..

3 “Council” means the New Jersey State Council on the Arts
4 established pursuant to P.L. 1966, c. 214 (C.52:16A-25 et seq.).

5 “Cultural Trust” means the New Jersey Cultural Trust established
6 by section 4 of this act.

7 “Endowment” means a permanent fund, the principal of which is to
8 remain intact in perpetuity and which is invested and held by or for the
9 exclusive use of a qualified organization, and the income of which may
10 be expended by the qualified organization for purposes consistent with
11 its mission.

12 “Financial stabilization” means those enhancements to a qualified
13 organization that build assets, reduce liabilities, aid cash flow, establish
14 working capital and capital reserves, expand income, improve public
15 access, build institutional capability and efficiency, or otherwise effect
16 long-term improvement of a qualified organization’s financial ability
17 to sustain itself and carry out its mission.

18 “Fiscal plan” means a document or documents detailing the policies,
19 functions, workings, and strategies of the Cultural Trust for its
20 operation in carrying out the purposes of this act, including all those
21 applicable to the solicitation and receipt of public funds and private
22 donations, the investment of the Trust Fund, and the distribution of
23 funds.

24 “Historic Trust” means the New Jersey Historic Trust established
25 pursuant to P.L.1967, c.124 (C.13:1B-15.111 et seq.).

26 “Performing, visual and creative arts” means performing and
27 creative arts as defined in section 2 of P.L.1966, c.214 (C.52:16A-
28 26).

29 “Preservation” means the stabilization, planning, repair,
30 rehabilitation, renovation, restoration, improvement, or protection of
31 any historic property, structure, facility, or site of a qualified
32 organization, and includes any work related to providing access
33 thereto for persons with disabilities.

34 “Project list” means a compilation of projects, their purposes, and
35 amounts recommended for receipt of Cultural Trust moneys by the
36 Council, Historic Trust, or Commission.

37 “Qualified organization” means a tax-exempt, non-profit
38 organization whose primary mission is to promote the performing,
39 visual and creative arts in New Jersey or to promote or preserve
40 history and humanities in New Jersey. The term shall not include
41 private, State, county, or municipal colleges, and universities. The
42 term shall not include State, county, or local governmental units,
43 authorities or corporations created by such units, and shall not include
44 a “qualifying governmental body” as defined in section 2 of P.L.1985,
45 c.410 (C.52:16A-26.2).

46 “Trust Fund” means the permanent investment fund established by

1 the Board of Trustees of the Cultural Trust as provided in section 8 of
2 this act.

3
4 4. There is hereby established in but not of the Department of
5 State a public body corporate and politic with corporate succession,
6 to be known as the "New Jersey Cultural Trust." For the purpose of
7 complying with the provisions of Article V, Section IV, paragraph 1
8 of the New Jersey Constitution, the Cultural Trust is hereby allocated
9 within the Department of State, but notwithstanding that allocation,
10 the Cultural Trust shall be independent of any supervision or control
11 by that department or by any board or officer thereof, except as
12 provided in this act.

13 The Cultural Trust is hereby constituted as an instrumentality of the
14 State exercising public and essential governmental functions, no part
15 of whose revenues shall accrue to the benefit of any individual, and the
16 exercise by the Cultural Trust of the powers conferred by this act shall
17 be deemed and held to be an essential governmental function of the
18 State. The statutory goals of the Cultural Trust shall include the
19 support of the arts, history, and humanities by assisting in the funding
20 of capital facilities projects and endowment development, and
21 contributing to the institutional and financial stability of qualified
22 organizations in New Jersey. Board members and staff of the Cultural
23 Trust may also engage in fundraising activities to effectuate the
24 purposes of this act.

25
26 5. a. The general responsibility for the proper oversight of the
27 Cultural Trust shall be vested in a Board of Trustees, which shall
28 possess the powers and duties specified in this act. The board shall
29 consist of 15 voting members.

30 b. The Secretary of State, or a designee, the State Treasurer, or a
31 designee, the chair of the New Jersey State Council on the Arts, or a
32 designee, the chair of the New Jersey Historic Trust, or a designee,
33 and the chair of the New Jersey Historical Commission, or a designee,
34 shall serve as ex-officio members of the board.

35 c. Two public members, who are not of the same political party,
36 shall be appointed by the Governor upon the recommendation of the
37 President of the Senate, and two public members, who are not of the
38 same political party, shall be appointed by the Governor upon the
39 recommendation of the Speaker of the General Assembly. These public
40 members shall serve for terms coextensive with the legislative term in
41 which they are appointed, subject to reappointment after the expiration
42 of the legislative term.

43 d. Six public members shall be appointed by the Governor with the
44 advice and consent of the Senate. The term of office of each public
45 member appointed pursuant to this subsection shall be five years,
46 except for the initial appointments, which shall be made as follows:

1 two members shall be appointed for a three-year term, two members
2 shall be appointed for a four-year term, and two members shall be
3 appointed for a five-year term.

4 e. No public member of the board appointed under subsections c.
5 and d. of this section shall serve concurrently on the New Jersey
6 Historical Commission, New Jersey State Council on the Arts, or the
7 board of the New Jersey Historic Trust.

8 f. The Governor, for cause, upon notice and opportunity to be
9 heard, may remove a public member of the board. A vacancy occurring
10 among any of the public members, other than by expiration of term,
11 shall be filled for the balance of the unexpired term only and in the
12 same manner as the original appointment. A member may serve until
13 a successor is appointed and has qualified. No person appointed
14 pursuant to subsection d. of this section shall serve for more than two
15 successive terms, provided, however, that any person appointed to fill
16 a vacancy shall be eligible for two successive terms excluding the
17 unexpired term.

18 g. The public members of the board shall serve without
19 compensation, but shall be entitled to reimbursement for all actual and
20 necessary expenses incurred in the performance of their duties.

21 h. Annually, at the first meeting of the board held in each State
22 fiscal year, the members of the board shall elect one of the public
23 members to serve as chair of the board. Under regulations adopted by
24 the board, the board may establish an executive committee composed
25 of no fewer than three board members, which committee may exercise
26 powers vested in and perform duties imposed upon the board to the
27 extent designated and permitted by the board. The board may establish
28 such advisory boards and committees as it may deem advisable.

29 i. Members and employees of the board shall be subject to the
30 provisions of the "New Jersey Conflicts of Interest Law," P.L.1971,
31 c.182 (C.52:13D-12 et seq.).

32 j. A majority of the authorized membership of the board shall
33 constitute a quorum for all purposes provided, however, that at least
34 one member of the quorum is a member pursuant to subsection b. of
35 this section or a designee of that member. No vacancy in the
36 membership of the board shall impair the right of a quorum to exercise
37 all the powers and perform the duties of the board.

38 k. A true copy of the minutes of every meeting of the board or the
39 executive committee shall be delivered promptly, after the certification
40 of the chair thereof, to the Governor. No action taken at a meeting by
41 the board or the executive committee shall have effect until approved
42 by the Governor or until 10 days after the copy of the minutes shall
43 have been delivered. If, within the 10-day period, the Governor
44 returns the copy of the minutes with a veto of any action taken by the
45 board or the executive committee or any member thereof at a meeting,
46 such action shall be null and void and of no effect. The Governor may

1 approve all or part of the action taken at a meeting prior to the
2 expiration of the 10-day period.

3 1. Any dissolution of the Cultural Trust shall be on the condition
4 that the Cultural Trust has no debts, contractual duties or obligations
5 outstanding, or that provision has been made for the payment,
6 discharge, or retirement of any debts, contractual duties or obligations.
7 Upon any dissolution of the Cultural Trust, all property, rights, funds,
8 and assets thereof shall pass to and become vested in the State, and all
9 moneys shall be used expressly for carrying out the purposes of this
10 act.

11 m. The board shall receive from the Attorney General of the State
12 all legal counsel and services necessary to carry out the purposes of
13 the Cultural Trust.

14

15 6. The board is hereby authorized and empowered:

16 a. Notwithstanding any provision of the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, to adopt,
18 immediately upon filing with the Office of Administrative Law, such
19 regulations as the board deems necessary to implement the provisions
20 of this act, which regulations shall be effective for a period not to
21 exceed 180 days from the date of the filing. Such regulations may
22 thereafter be amended, adopted or readopted by the board as
23 necessary in accordance with the requirements of P.L.1968, c.410.
24 However, the board shall not have the power to design or specify the
25 project lists of the Council, the Historic Trust, and the Commission
26 provided for in sections 10, 11, and 12 of this act. These rights shall
27 be held exclusively by the Council, the Historic Trust and the
28 Commission, respectively;

29 b. To solicit, receive, and accept appropriations, gifts, donations,
30 legacies, bequests, and endowments from public or private sources for
31 any purpose which falls within the purposes of the Cultural Trust. The
32 Cultural Trust may not acquire, hold, receive, or accept any moneys
33 or other property, real or personal, tangible or intangible, which will
34 result in the incurrence of any financial obligations on the part of the
35 State that cannot be supported entirely from funds available in the
36 Trust Fund without the express approval of the State Treasurer in
37 consultation with the Secretary of State;

38 c. To apply all moneys, assets, property, or other things of value it
39 may receive as an incident to its operation to the general purpose of
40 the Cultural Trust;

41 d. To cooperate with and assist and receive assistance from, insofar
42 as practicable, any agency of the State or any of its political
43 subdivisions, and any private agency or person in the furtherance of
44 the purposes of this act or of the Cultural Trust;

45 e. To evaluate and certify any and all donations made to the Cultural
46 Trust or a qualified organization for purposes of the transfer of

- 1 moneys from the Account to the Trust Fund pursuant to section 9 of
2 this act;
- 3 f. To accept or reject any recommendation on a project list
4 submitted solely by the Council, the Historic Trust, or the Commission
5 that will support the financing of capital facilities projects or
6 endowments, or contribute to the institutional and financial stability of
7 qualified organizations. The board as a whole or any of its members
8 may not recommend any project for funding that has not either
9 received a restricted donation as set forth in section 9 of this act or
10 been recommended for funding by the Council, the Historic Trust, or
11 the Commission on a project list submitted pursuant to section 10, 11
12 or 12 of this act;
- 13 g. To consult with the Director of the Division of Investments in the
14 Department of the Treasury and the State Treasurer regarding the
15 investment strategies for the moneys in the Trust Fund established by
16 the board pursuant to section 8 of this act;
- 17 h. To make and enter into any and all contracts and agreements for
18 goods and services and to enter into any and all contracts and
19 agreements or to execute any instrument with individuals,
20 organizations, institutions, or public agencies for services or endeavors
21 furthering the Cultural Trust;
- 22 i. To determine the portion of the interest generated by moneys in
23 the Trust Fund that will be made available for distribution to qualified
24 organizations, and to distribute these moneys as necessary and
25 appropriate pursuant to sections 10, 11 and 12 of this act;
- 26 j. To prepare and implement a fiscal plan for the Cultural Trust;
- 27 k. To prepare and submit an annual funding request for an
28 appropriation from the General Fund for the operational and
29 administrative costs of the board and the Cultural Trust to the
30 Governor through the Department of State and the Division of Budget
31 and Accounting in the Department of the Treasury, and to expend or
32 authorize the expenditure of moneys derived from such sources and
33 funds as are appropriated by the Legislature to implement the
34 provisions of this act;
- 35 l. To hire and employ such employees, in consultation with the
36 Secretary of State, as may be necessary or desirable in its judgment to
37 carry out the purposes of this act, to fix their compensation, and to
38 promote and discharge said employees, without regard to the
39 provisions of Title 11A of the Revised Statutes;
- 40 m. To sue and be sued in its own name, but the board members shall
41 be held harmless for acts performed in good faith;
- 42 n. To adopt a seal and alter the same at its pleasure;
- 43 o. To maintain an office or offices at such a place or places within
44 the State as the Secretary of State may designate;
- 45 p. To sell, convert, assign, develop, or otherwise dispose of any and
46 all necessary assets or property donated to the Cultural Trust, as

1 needed, for the purposes of this act. Any moneys gained by the sale
2 of these assets or property shall be deposited into the Trust Fund;

3 q. To develop in its regulations a process for appealing a decision
4 by the board; and

5 r. To do all acts and things necessary, incidental, convenient, or
6 desirable to carry out the powers granted in this act.

7

8 7. On or before the first day of October in each year, commencing
9 with the calendar year after the date of enactment of this act, the board
10 shall submit an annual report of the activities of the Cultural Trust for
11 the preceding State fiscal year to the Governor and to the Legislature.
12 The annual report shall set forth a complete operating and financial
13 statement covering the operations of the Cultural Trust during the
14 year, a long-range fiscal plan for the next five years, and a more
15 specific short-range fiscal plan for the fiscal year in which the annual
16 report is delivered with respect to providing the funding necessary to
17 achieve the goals and objectives of this act, and a summary of the
18 progress made to date on achieving those goals and objectives. The
19 board shall cause an audit of its records and accounts to be made at
20 least once in each year by independent certified public accountants,
21 and the cost thereof shall be considered an expense of the Cultural
22 Trust and a copy thereof shall be filed with the Director of the
23 Division of Budget and Accounting.

24

25 8. a. There is established in the General Fund a special, dedicated,
26 non-lapsing account to be known as the "New Jersey Cultural Trust
27 Account." The State Treasurer shall credit to the Account in each
28 State fiscal year beginning in State fiscal year 2001 through and
29 including State fiscal year 2010 an amount not less than \$10,000,000.
30 The amount credited to the Account shall be subject to annual State
31 appropriation and shall be appropriated only for the purposes set forth
32 in this act.

33 b. (1) The board shall establish a permanent, interest-bearing
34 investment trust fund to be known as the "New Jersey Cultural Trust
35 Fund," into which public funds and private donations and transfers
36 from the Account shall be deposited and from which matching funds
37 for large gift donations may be disbursed for endowments and from
38 which interest income may be distributed, as provided in this act.

39 (2) Moneys deposited in the Trust Fund shall be held in investment
40 accounts in public depositories as defined pursuant to section 1 of
41 P.L.1970, c.236 (C.17:9-41), and shall be invested or reinvested in a
42 manner approved by the Director of the Division of Investment and the
43 State Treasurer in consultation with the board. Interest or other
44 income earned on moneys deposited in the Trust Fund, and any
45 moneys which may otherwise become available for the purposes of the
46 Cultural Trust, shall be for the use of the Cultural Trust, as set forth

1 in this act.

2 c. (1) For State fiscal year 2001 through and including State fiscal
3 year 2010, the State Treasurer shall transfer money from the Account
4 to the Trust Fund based upon donations to the Cultural Trust and to
5 qualified organizations, as determined in section 9 of this act. The
6 State Treasurer shall transfer to the Trust Fund an amount equal to the
7 amount of the donations, subject to the availability of moneys in the
8 Account.

9 (2) None of the interest derived from the moneys held in the Trust
10 Fund shall be disbursed to qualified organizations by the board until
11 the Trust Fund has received donations and transfers totaling not less
12 than \$20,000,000, or one year from the effective date of this act,
13 whichever occurs later. However, nothing in this paragraph shall
14 prohibit the board from disbursing moneys from the Trust Fund
15 pursuant to section 9 of this act prior to the Trust Fund reaching
16 \$20,000,000.

17 (3) The disbursement from the Trust Fund to a qualified
18 organization receiving a large gift donation as provided in paragraph
19 (2) of subsection b. of section 9 of this act shall be made by resolution
20 adopted by a majority of the authorized membership of the board
21 specifying the particular endowment or endowments to be funded by
22 those moneys. However, the aggregate of such disbursements shall
23 not exceed 20 percent of the amount in the Trust Fund in any one
24 fiscal year.

25 (4) The portion of interest moneys generated from the Trust Fund,
26 and determined available for disbursement by the board, shall be
27 allocated as follows: 50 percent to the Council's recommendations; 25
28 percent to the Historic Trust's recommendations; and 25 percent to the
29 Commission's recommendations. Of the portion of interest moneys
30 generated from the Trust Fund and determined available for
31 disbursement by the board, at least 25 percent shall be allocated to
32 projects of qualified organizations that directly benefit the residents of
33 Southern New Jersey.

34 (5) An affirmative vote by 10 or more members of the board may
35 alter the allocation to the Council, Historic Trust, and Commission,
36 but not the allocation to projects of qualified organizations that
37 directly benefit the residents of Southern New Jersey, of the portion
38 of interest moneys generated, as identified in paragraph (4) of this
39 subsection, for a period of one State fiscal year. Upon the completion
40 of that fiscal year, the allocation shall revert back to the percentages
41 enumerated in paragraph (4) of this subsection.

42 (6) All property of the Cultural Trust is declared to be public
43 property devoted to an essential public and governmental function and
44 purpose, and the Cultural Trust shall be exempt from all taxes and
45 special assessments of the State or any political subdivision thereof.

46 (7) For the purposes of efficiency and convenience, nothing in this

1 act shall prohibit the board from combining the project lists, in whole
2 or in part, of the Council, the Historic Trust, or the Commission into
3 one proposed resolution to be considered by the board.

4 (8) To the extent moneys are or may become available as a result of
5 project withdrawals, cancellations, lack of funding, or other such
6 financial matters, the unexpended balances of the amounts disbursed
7 shall revert to the Trust Fund.

8 d. In the event that any donation or donations exceed the amount
9 credited to the Account in any given State fiscal year, the credit for the
10 donation or donations may be carried forward and used to transfer
11 moneys into the Trust Fund, subject to annual State appropriation to
12 the Account.

13 e. If the Cultural Trust does not receive annual donations equaling
14 the amount annually credited to the Account, the State Treasurer shall
15 carry forward in the Account all remaining appropriations, for each
16 State fiscal year. The State Treasurer shall transfer any carried
17 forward funds in the Account to the Trust Fund should sufficient
18 donations be made to warrant the transfer of these funds pursuant to
19 section 9 of this act.
20

21 9. Donations to the Cultural Trust shall initiate the transfer of a
22 dollar-for-dollar match of State appropriated moneys from the
23 Account into the Trust Fund. For the purposes of this act, a donation
24 shall be:

25 a. an unrestricted donation which is money, property or other object
26 of value given directly to the Cultural Trust but not dedicated for use
27 by a specific qualified organization. Once an unrestricted donation has
28 been certified by the board to the Trust Fund, the State Treasurer
29 shall transfer from the Account to the Trust Fund an amount equal to
30 the unrestricted donation.

31 b. (1) a restricted donation which is money, property, or other
32 object with monetary value given directly to a qualified organization
33 that is expressly dedicated for endowment. The State Treasurer shall
34 transfer from the Account to the Trust Fund an amount equal to the
35 restricted donation once (a) the board approves a letter of donation or
36 intent to donate, designating the amount of the donation and the name
37 of the financial institution from which the moneys were allocated, with
38 the account number, or a certified appraisal, deed, or other appropriate
39 documentation in the case of property, (b) the board is provided with
40 the name of the qualified organization to which the donation was made
41 and a certification from that qualified organization that the donation
42 was in fact received by the qualified organization, and (c) the board
43 determines and certifies to the State Treasurer that the donation is
44 consistent with the purposes of this act. A restricted donation given
45 directly to a qualified organization on or after January 1, 2000 but
46 before the effective date of this act may be considered a restricted

1 donation for the purposes of this act and shall result in a transfer from
2 the Account to the Trust Fund at such time as may be appropriate
3 provided the requirements of this act are met.

4 (2) When a restricted donation is equal to or greater than \$100,000,
5 the donation shall be considered a large gift donation and the board
6 shall disburse to the qualified organization receiving the donation from
7 the matched funds transferred from the Account to the Trust Fund an
8 amount equal to 20 percent of the donation pursuant to the procedure
9 set forth in paragraph (3) of subsection c. of section 8 of this act.

10

11 10. At least once each State fiscal year after the board has
12 determined that sufficient interest has accrued to provide grants to
13 qualified organizations, the Council shall submit to the board a list of
14 capital facilities, endowment, and financial stabilization projects which
15 the Council recommends to receive funding from the Trust Fund,
16 based upon a priority system, ranking criteria, and funding policies
17 established by the Council pursuant to this act and P.L.1966, c.214
18 (C.52:16A-25 et seq.) and any rules or regulations adopted pursuant
19 thereto. The board shall review the list and may make such deletions,
20 but not additions, of projects therefrom as it deems appropriate and in
21 accordance with the procedures established by the board for such
22 deletions pursuant to this act, whereupon the board shall approve the
23 list. This approved project list shall receive moneys from the Cultural
24 Trust for the purposes of effectuating this act.

25

26 11. At least once each State fiscal year after the board has
27 determined that sufficient interest has accrued to provide grants to
28 qualified organizations, the Historic Trust shall submit to the board a
29 list of capital facilities projects that the Historic Trust recommends to
30 receive funding from the Trust Fund, based upon a priority system,
31 ranking criteria, and funding policies established by the Historic Trust
32 pursuant to this act and P.L.1967, c.124 (C.13:1B-15.111 et seq.), and
33 any rules or regulations adopted pursuant thereto. The board shall
34 review the list and may make such deletions, but not additions, of
35 projects therefrom as it deems appropriate and in accordance with the
36 procedures established by the board for such deletions pursuant to this
37 act, whereupon the board shall approve the list. This approved project
38 list shall receive moneys from the Cultural Trust for the purposes of
39 effectuating this act.

40

41 12. At least once each State fiscal year after the board has
42 determined that sufficient interest has accrued to provide grants to
43 qualified organizations, the Commission shall submit to the board a list
44 of endowment and financial stabilization projects that the Commission
45 recommends to receive funding from the Trust Fund, based upon a
46 priority system, ranking criteria, and funding policies established by

1 the Commission pursuant to this act and N.J.S.18A:73-21 et seq. any
2 rules or regulations adopted pursuant thereto. The board shall review
3 the list and may make such deletions, but not additions, of projects
4 therefrom as it deems appropriate and in accordance with the
5 procedures established by the board for such deletions pursuant to this
6 act, whereupon the board shall approve the list. This approved project
7 list shall receive moneys from the Cultural Trust for the purposes of
8 effectuating this act.

9

10 13. a. All qualified organizations receiving moneys from the
11 Cultural Trust pursuant to this act shall enter into an agreement with
12 the board, which shall provide for monitoring the allocation and use of
13 moneys to ensure that such moneys are held and used consistent with
14 the purposes of this act.

15 b. As determined by the board, the qualified organizations in receipt
16 of moneys from the Trust Fund shall report to the board on its
17 activities, financial status, and use of the moneys disbursed to it by the
18 board.

19

20 14. a. Notwithstanding any provision of the "Administrative
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
22 contrary, the Council, the Historic Trust, and the Commission may
23 adopt, immediately upon filing with the Office of Administrative Law,
24 such regulations as the Council, the Historic Trust, and the
25 Commission deem necessary to implement the provisions of this act
26 which regulations shall be effective for a period not to exceed 180
27 days from the date of the filing. Such regulations may thereafter be
28 amended, adopted or readopted by the Council, the Historic Trust, and
29 the Commission as necessary in accordance with the requirements of
30 P.L.1968, c.410.

31 b. The Council, the Historic Trust, and the Commission shall
32 prepare and submit an annual funding request to the Governor through
33 the Department of State and the Division of Budget and Accounting
34 in the Department of the Treasury to carry out the purposes of this
35 act.

36

37 15. This act shall take effect immediately.

38

39

40

STATEMENT

41

42 This bill establishes the New Jersey Cultural Trust.

43 According to the bill, its purpose is to ensure a stable and healthy
44 cultural climate in this State that is sustainable for years to come and
45 under fluctuating economic conditions. Therefore, a permanent,
46 interest-generating fund is created to be an additional source of

1 revenue to non-profit arts, history, and humanities organizations,
2 specifically for the building of endowments, the improvement of
3 institutional and financial stability, and the capital improvement of
4 cultural facilities.

5 The New Jersey Cultural Trust is established in but not of the
6 Department of State for the purpose of complying with the provisions
7 of Article V, Section IV, paragraph 1 of the New Jersey Constitution,
8 but the Cultural Trust will be independent of any supervision or
9 control by that department. The goals of the Cultural Trust will
10 include the support of the arts, history, and humanities by assisting in
11 the funding of capital facilities projects and endowment development,
12 and contributing to the institutional and financial stability of qualified
13 organizations in New Jersey. Board members and staff of the Cultural
14 Trust may also engage in fundraising activities.

15 The general responsibility for the proper oversight of the Cultural
16 Trust will be vested in a 15-member Board of Trustees, which will
17 have the powers and duties set forth in the bill. The board members
18 include the Secretary of State, the State Treasurer, the chair of the
19 New Jersey State Council on the Arts, the chair of the New Jersey
20 State Historic Trust, and the chair of the New Jersey Historical
21 Commission. Two public members, who are not of the same political
22 party, will be appointed by the Governor upon the recommendation of
23 the President of the Senate, and two public members, who are not of
24 the same political party, will be appointed by the Governor upon the
25 recommendation of the Speaker of the General Assembly. Six public
26 members will be appointed by the Governor with the advice and
27 consent of the Senate.

28 Members and employees of the board will be subject to the "New
29 Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et
30 seq.). A copy of the minutes of every meeting of the board or its
31 executive committee must be submitted to the Governor for approval.
32 The board must submit an annual report of the activities of the
33 Cultural Trust for each State fiscal year to the Governor and to the
34 Legislature.

35 The bill anticipates, but does not make, an annual appropriation of
36 at least \$10 million for deposit into a special, dedicated, non-lapsing
37 account known as the "New Jersey Cultural Trust Account" for fiscal
38 years 2001 through 2010. The bill requires the board to establish a
39 permanent, interest-bearing investment trust fund known as the "New
40 Jersey Cultural Trust Fund," into which public funds and private
41 donations and transfers from the Account will be deposited and from
42 which funds for large gift donations may be disbursed for endowments
43 and interest income may be distributed, all as provided in this act.

44 For State fiscal years 2001 through 2010, the State Treasurer will
45 transfer money from the Account to the Trust Fund based upon
46 donations to the Cultural Trust and to qualified organizations as

1 determined in the act. The State Treasurer will transfer to the Trust
2 Fund an amount equal to the amount of the donations, subject to the
3 availability of moneys in the Account. None of the interest derived
4 from the moneys held in the Trust Fund will be disbursed to qualified
5 organizations by the board until the Trust Fund has received donations
6 and appropriations totaling not less than \$20 million, or one year after
7 the act's enactment, whichever occurs later.

8 The disbursement from the Trust Fund to a qualified organization
9 receiving a large gift donation of 20 percent of the amount of the
10 donation must be authorized by resolution adopted by a majority of the
11 authorized membership of the board specifying the particular
12 endowment or endowments to be funded by those moneys.

13 The portion of interest moneys generated from the Trust Fund, and
14 determined available for disbursement by the board, will be allocated
15 as follows: 50 percent to the Council's recommended projects; 25
16 percent to the Historic Trust's recommended projects; and 25 percent
17 to the Commission's recommended projects, and, overall, at least 25
18 percent will be allocated to projects of qualified organizations that
19 directly benefit the residents of Southern New Jersey.

20 Donations to the Cultural Trust from individuals, foundations,
21 private corporations, and other sources will initiate the transfer of a
22 dollar-for-dollar match of State appropriated moneys from the
23 Account into the Trust Fund. The bill defines donations as either
24 unrestricted donations (moneys, property or other objects with
25 monetary value not dedicated for use by a specific qualified
26 organization) or restricted donations (moneys, property or other
27 objects with monetary value given directly to a qualified organization
28 that are expressly dedicated for endowment). If the Cultural Trust
29 does not receive annual donations equaling the amount annually
30 appropriated and credited to the Account, the State Treasurer will
31 carry forward in the Account all remaining appropriations for each
32 fiscal year. If donations Cultural Trust exceed the funds in the
33 Account, the credit for the donations will also be carried forward for
34 future transfers from the Account to the Trust Fund.

35 At least once each State fiscal year after the board has determined
36 that sufficient interest has accrued to provide grants to qualified
37 organizations, the New Jersey State Council on the Arts, the New
38 Jersey Historical Commission and the New Jersey Historic Trust will
39 submit to the board a list of capital facilities, endowment, and financial
40 stabilization projects which they recommend to receive funding from
41 the Trust Fund, based upon a priority system, ranking criteria, and
42 funding policies. The board will review the list and may make such
43 deletions, but not additions, deemed appropriate, and then the board
44 will approve the list. This approved project list will receive moneys
45 from the Cultural Trust.

46 All qualified organizations receiving moneys from the Cultural Trust

1 will enter into an agreement with the board for monitoring the
2 allocation and use of moneys to ensure that such moneys are held and
3 used consistent with the purposes of this bill.

4 The bill specifically permits the recognition of donations to qualified
5 organizations made from January 1, 2000 to the effective date of the
6 bill for the purposes of the Cultural Trust.