

52:16A-72 to 52:16A-85

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2000 **CHAPTER:** 76
NJSA: 52:16A-72 (New Jersey Cultural Trust)
BILL NO: A48 (Substituted for S1328)
SPONSOR(S): Lance and Heck
DATE INTRODUCED: May 11, 2000
COMMITTEE: **ASSEMBLY:** State Government; Appropriations
SENATE: State Government; Budget
AMENDED DURING PASSAGE: No
DATE OF PASSAGE: **ASSEMBLY:** June 15, 2000
SENATE: June 29, 2000
DATE OF APPROVAL: July 25, 2000

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Original version enacted)

A48

SPONSORS STATEMENT: (Begins on page 12 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: Yes 5-22-2000 (State Govt.) 6-8-2000 (Approp.)
	SENATE: Yes 6-22-2000 (State Govt.) 6-26-2000 (Budget)

FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes

S1328

SPONSORS STATEMENT: (Begins on page 12 of original bill)	Yes
	Bill and Sponsors Statement identical to A48
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes 6-22-2000 (State Govt.) Identical to Senate State Government Committee Statement for

A48

	6-26-2000 (Budget)
	Identical to Senate Budget Committee Statement for A48

FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	No
LAST VERSION (first reprint)	Yes

VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

"Cultural Trust Act will give annual funds to the arts," 7-25-2000 The Record, pA5

"Whitman increases state's funding for arts to \$20 million," 7-25-2000 The Times, p.A7

"State's arts organizations \$34 million richer today," 7-25-2000 Star Ledger, p.17

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.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 48

STATE OF NEW JERSEY

DATED: MAY 22, 2000

The Assembly State Government Committee reports favorably Assembly, No. 48.

This bill establishes the New Jersey Cultural Trust and creates a permanent, interest-generating fund to be an additional source of revenue to non-profit arts, history, and humanities organizations for the building of endowments, the improvement of institutional and financial stability, and the capital improvement of cultural facilities.

The New Jersey Cultural Trust is established in but not of the Department of State and will be independent of any supervision or control by that department. The stated goal of the Cultural Trust is the support of the arts, history, and humanities through funding of capital facilities projects, assisting in endowment development, and contributing to the institutional and financial stability of qualified organizations in New Jersey.

The bill provides that the general responsibility for the oversight of the Cultural Trust will be vested in a 15-member Board of Trustees. The ex officio board members are the Secretary of State, the State Treasurer, the chair of the New Jersey State Council on the Arts, the chair of the New Jersey State Historic Trust, and the chair of the New Jersey Historical Commission. Two public members, who are not of the same political party, will be appointed by the Governor upon the recommendation of the President of the Senate, and two public members, who are not of the same political party, will be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. Six public members will be appointed by the Governor with the advice and consent of the Senate. Members and employees of the board will be subject to the "New Jersey Conflicts of Interest Law," N.J.S.A. 52:13D-12 et seq. A copy of the minutes of every meeting of the board must be submitted to the Governor for approval and the board must submit an annual report of the activities of the Cultural Trust for each State fiscal year to the Governor and the Legislature.

The bill anticipates, but does not make, an annual appropriation of at least \$10 million for deposit into a special, dedicated, non-lapsing account established in the General Fund and to be known as the

"New Jersey Cultural Trust Account" (Account) for fiscal years 2001 through 2010. The bill requires the board to establish a permanent, interest-bearing investment trust fund known as the "New Jersey Cultural Trust Fund" (Trust Fund), into which public funds, private donations and transfers from the Account will be deposited and from which funds for large gift donations may be disbursed for endowments and interest income may be distributed.

For State fiscal years 2001 through 2010, the State Treasurer will transfer money from the Account to the Trust Fund as a dollar-for-dollar match for unrestricted donations to the Cultural Trust and for restricted donations expressly dedicated for endowment to qualified organizations. When a qualified organization receives a large restricted donation, defined as equal to or greater than \$100,000, a disbursement from the Trust Fund equal to 20 percent of the amount of the donation, authorized by a board resolution specifying the particular endowment or endowments to be funded, will be made to the qualified organization.

The bill provides that the interest derived from the moneys held in the Trust Fund will be disbursed to qualified organizations by the board but not until the Trust Fund has received donations and appropriations totaling not less than \$20 million, or one year after the bill's enactment, whichever occurs later. At least once each State fiscal year after the board has determined that sufficient interest has accrued to provide grants to qualified organizations, the New Jersey State Council on the Arts, the New Jersey Historical Commission and the New Jersey Historic Trust will each submit to the board a list of capital facilities, endowment and financial stabilization projects which they recommend to receive funding from the Trust Fund. The board will review and approve each list; it may delete but not add projects. Projects on the approved lists will receive moneys from the Cultural Trust. The portion of interest moneys generated from the Trust Fund, and determined available for disbursement by the board, will be allocated as 50 percent to the Council's recommended projects, 25 percent to the Historic Trust's recommended projects, and 25 percent to the Commission's recommended projects. Overall, at least 25 percent will be allocated to projects of qualified organizations that directly benefit the residents of Southern New Jersey. All qualified organizations receiving moneys from the Cultural Trust will enter into an agreement with the board for monitoring the allocation and use of those moneys.

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

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 48

STATE OF NEW JERSEY

DATED: JUNE 8, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 48.

Assembly Bill No. 48 establishes the New Jersey Cultural Trust, governed by a board of trustees, and creates a permanent, interest-generating fund to be an additional source of revenue to non-profit arts, history, and humanities organizations for the building of endowments, the improvement of institutional and financial stability, and the capital improvement of cultural facilities.

The New Jersey Cultural Trust is established in, but not of, the Department of State, independent of any supervision or control by that department. The purpose of the Cultural Trust is the support of the arts, history, and humanities through funding of capital facilities projects, assisting in endowment development, and contributing to the institutional and financial stability of qualified organizations in New Jersey.

The bill vests general responsibility for the oversight of the Cultural Trust in a 15-member Board of Trustees. Five of the board members are, ex officio: the Secretary of State, the State Treasurer, the chair of the New Jersey State Council on the Arts, the chair of the New Jersey State Historic Trust, and the chair of the New Jersey Historical Commission, or their respective designees. Four public members will be appointed by the Governor upon recommendation of Legislative leadership: two who are not of the same political party upon the recommendation of the President of the Senate, and two who are not of the same political party upon the recommendation of the Speaker of the General Assembly. Six public members will be appointed by the Governor with the advice and consent of the Senate.

At least once each State fiscal year after the board has determined that sufficient interest has accrued to provide grants to qualified organizations (but not before the Trust Fund balance equals at least \$20,000,000), the New Jersey State Council on the Arts, the New Jersey Historical Commission and the New Jersey Historic Trust will each submit to the board a list of capital facilities, endowment and financial stabilization projects which they recommend to receive funding from the Trust Fund. The board will review and approve each list; it may delete but not add projects. Projects on the approved lists will receive moneys from the Cultural Trust. The portion of interest

moneys generated from the Trust Fund, and determined available for disbursement by the board, will be allocated as 50 percent to the Council's recommended projects, 25 percent to the Historic Trust's recommended projects, and 25 percent to the Commission's recommended projects. Overall, at least 25 percent will be allocated to projects of qualified organizations that directly benefit the residents of Southern New Jersey. All qualified organizations receiving moneys from the Cultural Trust will enter into an agreement with the board for monitoring the allocation and use of those moneys.

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

FISCAL IMPACT:

The bill anticipates, but does not make, annual appropriations of at least \$10 million for each fiscal year from FY2001 through FY2010 for deposit into a special, dedicated, non-lapsing account established in the General Fund and to be known as the "New Jersey Cultural Trust Account" (Account). The bill requires the board to establish a permanent, interest-bearing investment trust fund known as the "New Jersey Cultural Trust Fund" (Trust Fund), into which public funds, private donations and transfers from the Account will be deposited.

For State fiscal years 2001 through 2010, the State Treasurer will transfer money from the Account to the Trust Fund as a dollar-for-dollar match for unrestricted donations to the Cultural Trust and for restricted donations expressly dedicated for endowment to qualified organizations. (If the Cultural Trust does not receive annual donations equaling the amount annually appropriated and credited to the Account, the State Treasurer will carry forward in the Account all remaining amounts appropriated; if donations to the Cultural Trust exceed the funds in the Account, a trust transfer credit for the donations will be carried forward for future appropriations to the Account.)

The bill provides that the interest derived from the moneys held in the Trust Fund will be disbursed to qualified organizations by the board, but not until the Trust Fund has received donations and appropriations totaling not less than \$20 million, or one year after the bill's enactment, whichever occurs later.

The corpus of the trust may be transferred if a qualified organization receives a restricted "large donation," of \$100,000 or more. A disbursement from the Trust Fund equal to 20 percent of the amount of the donation, authorized by a board resolution specifying the particular endowment or endowments to be funded, will be made to the qualified organization, provided that the aggregate of such disbursements may not in any one fiscal year exceed 20% of the Trust Fund balance.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 48

STATE OF NEW JERSEY

DATED: JUNE 22, 2000

The Senate State Government Committee reports favorably Assembly Bill No. 48.

This bill establishes the New Jersey Cultural Trust and creates a permanent, interest-generating fund to be an additional source of revenue to non-profit arts, history, and humanities organizations for the building of endowments, the improvement of institutional and financial stability, and the capital improvement of cultural facilities. The New Jersey Cultural Trust is established in but not of the Department of State and will be independent of any supervision or control by that department.

The bill provides that the general responsibility for the oversight of the Cultural Trust will be vested in a 15-member Board of Trustees. The ex officio board members are the Secretary of State, the State Treasurer, the chair of the New Jersey State Council on the Arts, the chair of the New Jersey State Historic Trust, and the chair of the New Jersey Historical Commission. Two public members, who are not of the same political party, will be appointed by the Governor upon the recommendation of the President of the Senate, and two public members, who are not of the same political party, will be appointed by the Governor upon the recommendation of the Speaker of the General Assembly. Six public members will be appointed by the Governor with the advice and consent of the Senate. Members and employees of the board will be subject to the "New Jersey Conflicts of Interest Law," N.J.S.A. 52:13D-12 et seq. A copy of the minutes of every meeting of the board must be submitted to the Governor for approval and the board must submit an annual report of the activities of the Cultural Trust for each State fiscal year to the Governor and the Legislature.

The bill anticipates, but does not make, an annual appropriation of at least \$10 million for deposit into a special, dedicated, non-lapsing account established in the General Fund and to be known as the "New Jersey Cultural Trust Account" (Account) for fiscal years 2001 through 2010. The bill requires the board to establish a permanent, interest-bearing investment trust fund known as the "New Jersey Cultural Trust Fund" (Trust Fund), into which public funds, private donations and transfers from the Account will be deposited and from

which funds for large gift donations may be disbursed for endowments and interest income may be distributed.

For State fiscal years 2001 through 2010, the State Treasurer will transfer money from the Account to the Trust Fund as a dollar-for-dollar match for unrestricted donations to the Cultural Trust and for restricted donations expressly dedicated for endowment to qualified organizations. When a qualified organization receives a large restricted donation, defined as equal to or greater than \$100,000, a disbursement from the Trust Fund equal to 20 percent of the amount of the donation, authorized by a board resolution specifying the particular endowment or endowments to be funded, will be made to the qualified organization.

The bill provides that the interest derived from the moneys held in the Trust Fund will be disbursed to qualified organizations by the board but not until the Trust Fund has received donations and appropriations totaling not less than \$20 million, or one year after the bill's enactment, whichever occurs later. At least once each State fiscal year after the board has determined that sufficient interest has accrued to provide grants to qualified organizations, the New Jersey State Council on the Arts, the New Jersey Historical Commission and the New Jersey Historic Trust will each submit to the board a list of capital facilities, endowment and financial stabilization projects which they recommend to receive funding from the Trust Fund. The board will review and approve each list; it may delete but not add projects. Projects on the approved lists will receive moneys from the Cultural Trust. The portion of interest moneys generated from the Trust Fund, and determined available for disbursement by the board, will be allocated as 50 percent to the Council's recommended projects, 25 percent to the Historic Trust's recommended projects, and 25 percent to the Commission's recommended projects. Overall, at least 25 percent will be allocated to projects of qualified organizations that directly benefit the residents of Southern New Jersey. All qualified organizations receiving moneys from the Cultural Trust will enter into an agreement with the board for monitoring the allocation and use of those moneys.

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

Assembly, No. 48 is the same as Senate, No. 1328 (Sca).

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 48

STATE OF NEW JERSEY

DATED: JUNE 26, 2000

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 48.

This bill establishes the New Jersey Cultural Trust and creates a permanent, interest-generating fund to be an additional source of revenue to non-profit arts, history, and humanities organizations for the building of endowments, the improvement of institutional and financial stability, and the capital improvement of cultural facilities.

The New Jersey Cultural Trust is established in, but not of, the Department of State, independent of any supervision or control by that department. The purpose of the trust is to support the arts, history, and humanities through funding of capital facilities projects, assisting in endowment development, and contributing to the institutional and financial stability of qualified organizations in New Jersey.

The bill vests general responsibility for the oversight of the Cultural Trust in a 15-member Board of Trustees. Five of the board members are *ex officio*: the Secretary of State, the State Treasurer, the chair of the New Jersey State Council on the Arts, the chair of the New Jersey State Historic Trust, and the chair of the New Jersey Historical Commission, or their respective designees. Four public members will be appointed by the Governor upon recommendation of Legislative leadership: two who are not of the same political party upon the recommendation of the President of the Senate, and two who are not of the same political party upon the recommendation of the Speaker of the General Assembly. Six public members will be appointed by the Governor with the advice and consent of the Senate.

At least once each State fiscal year after the board has determined that sufficient interest has accrued to provide grants to qualified organizations (but not before the Trust Fund balance equals at least \$20,000,000), the New Jersey State Council on the Arts, the New Jersey Historical Commission and the New Jersey Historic Trust will each submit to the board a list of capital facilities, endowment and financial stabilization projects that they recommend to receive funding from the Trust Fund. The board will review and approve each list; it may delete but not add projects. Projects on the approved lists will receive moneys from the Cultural Trust. The portion of interest moneys generated from the Trust Fund, and determined available for disbursement by the board, will be allocated as 50 percent to the

Council's recommended projects, 25 percent to the Historic Trust's recommended projects, and 25 percent to the Commission's recommended projects. Overall, at least 25 percent will be allocated to projects of qualified organizations that directly benefit the residents of Southern New Jersey. All qualified organizations receiving moneys from the Cultural Trust will enter into an agreement with the board for monitoring the allocation and use of those moneys.

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

The provisions of this bill are identical to those of Senate Bill No. 1328 (1R), which the committee also reports this day.

FISCAL IMPACT

The bill anticipates, but does not make, annual appropriations of at least \$10 million for each fiscal year from FY2001 through FY2010 for deposit into a special, dedicated, non-lapsing account established in the General Fund and to be known as the "New Jersey Cultural Trust Account" (Account). The bill requires the board to establish a permanent, interest-bearing investment trust fund known as the "New Jersey Cultural Trust Fund" (Trust Fund), into which public funds, private donations and transfers from the Account will be deposited.

For State fiscal years 2001 through 2010, the State Treasurer will transfer money from the Account to the Trust Fund as a dollar-for-dollar match for unrestricted donations to the Cultural Trust and for restricted donations expressly dedicated for endowment to qualified organizations. If the trust does not receive annual donations equaling the amount annually appropriated and credited to the Account, the State Treasurer will carry forward in the Account all remaining amounts appropriated; if donations to the trust exceed the funds in the Account, a trust transfer credit for the donations will be carried forward for future appropriations to the Account.

The bill provides that the interest derived from the moneys held in the Trust Fund will be disbursed to qualified organizations by the board, but not until the Trust Fund has received donations and appropriations totaling at least \$20 million, or one year after the bill's enactment, whichever occurs later.

The corpus of the trust may be transferred if a qualified organization receives a restricted "large donation" of \$100,000 or more. A disbursement from the Trust Fund equal to 20 percent of the amount of the donation, authorized by a board resolution specifying the particular endowment or endowments to be funded, will be made to the qualified organization, provided that the aggregate of such disbursements may not in any one fiscal year exceed 20% of the Trust Fund balance.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 48
STATE OF NEW JERSEY
209th LEGISLATURE

DATED: JULY 17, 2000

SUMMARY

Synopsis: Establishes New Jersey Cultural Trust.
Type of Impact: State General Fund expenditure increase.
Agencies Affected: Department of the Treasury; Secretary of State.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost		Indeterminate	

- ! The New Jersey Cultural Trust is created as a program to support the arts, history, and humanities by funding capital facilities projects, endowment development, and institutional and financial stability of qualified non-profit cultural organizations in New Jersey.
- ! To fund the program, the bill anticipates, but does not appropriate, an annual General Fund appropriation of at least \$10 million each year for FY2001 through FY2010 to be deposited into the program's trust fund on a dollar for dollar basis to match any private donations received by the program. Money in the trust fund will be used for disbursements to endowments of certain qualified organizations and the interest income will be disbursed as grants to organizations for projects recommended by the New Jersey State Council on the Arts, the New Jersey Historical Commission, and the New Jersey Historic Trust.
- ! The State General Fund will incur additional costs for the staff and office that administers the program. The trust fund cannot be used to support these administrative costs. No appropriation is made by the bill for this purpose.

BILL DESCRIPTION

Assembly Bill No. 48 of 2000 establishes the New Jersey Cultural Trust and creates a permanent, interest-generating trust fund to be a revenue source for non-profit arts, history, and humanities organizations. The program will provide funds to such

organizations for endowments, institutional and financial stability, and capital improvement of cultural facilities. The Cultural Trust is established in, but not of, the Department of State and will be independent of any supervision or control by that department.

The general responsibility for the program is vested in a 15-member Board of Trustees, with five ex officio members and ten public members who will serve without compensation, but will be reimbursed for expenses. Staff may be hired and offices established to administer the program.

The bill anticipates, but does not make, an annual appropriation of at least \$10 million from the State's General Fund for fiscal years 2001 through 2010. This appropriation will be deposited into a trust fund when private donations are made as unrestricted donations to the trust fund or when restricted donations for endowments are made directly to qualified organizations.

When a qualified organization receives a restricted donation of \$100,000 or more, the program will disburse from the trust fund to the organization an amount equal to 20 percent of the donation. Interest income from the trust fund will be disbursed by the board as grants to qualified organizations for endowments, financial stabilization projects, and the capital facilities projects, upon the recommendation of the New Jersey Historical Commission, New Jersey Historic Trust, and New Jersey State Council on the Arts. The bill requires the interest income to be distributed 50 percent to the Council's recommendations, 25 percent to the Trust's recommendations and 25 percent to the Commission's recommendation, with 25 percent overall allocated to projects on Southern New Jersey. No interest income can be distributed until one year after enactment or until the trust fund has on deposit \$20 million.

The bill specifically permits the recognition of restricted donations to qualified organizations made from January 1, 2000 to the effective date of the bill for the purposes of the program.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) cannot estimate the additional costs that the State General Fund will incur for the staff and office that will administer the New Jersey Cultural Trust program. The bill authorizes the Board of Trustees to hire employees who are necessary to carry out the purposes of the bill, to maintain an office or offices, and to reimburse public board members for actual and necessary expenses; these costs are unknown, but represent new expenses for the General Fund. No appropriation is made by the bill for these purposes. The bill requires the program to submit to the Governor an annual request for appropriations for operational and administrative costs. The bill does not permit the use of money in the trust fund for these costs.

In addition, the OLS does not know how quickly or to what extent public funds and private donations will be available to make the program fully operational. For State fiscal years 2001 through 2010, the bill anticipates a General Fund appropriation of at least \$10 million annually. No appropriation is made by this bill. The OLS notes that it is not possible to know how quickly or to what extent money will accumulate in the trust fund, what rate of interest the trust

fund will earn, or in what amounts the trust fund moneys and interest will be distributed to qualified organizations for donations received and projects proposed, respectively.

The Board of Trustees of the program will consult with the Director of the Division of Investment and the State Treasurer regarding investment strategies for the moneys in the trust fund. No interest income will be disbursed until the trust fund has received donations and appropriations totaling not less than \$20 million, or one year after the bill's enactment, whichever occurs later.

Section: *State Government*

Analyst: *Pamela Espenshade*
Senior Counsel

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

P.L. 2000, CHAPTER 76, *approved July 25, 2000*
Assembly, No. 48

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

1 relating to providing access thereto for persons with disabilities. The
2 term includes the acquisition of an interest in real property and
3 includes the repair and replacement of fixtures.

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

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

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

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

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

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

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

29 “Performing, visual and creative arts” means performing and
30 creative arts as defined in section 2 of P.L.1966, c.214 (C.52:16A-
31 26).

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

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

40 “Qualified organization” means a tax-exempt, non-profit
41 organization whose primary mission is to promote the performing,
42 visual and creative arts in New Jersey or to promote or preserve
43 history and humanities in New Jersey. The term shall not include
44 private, State, county, or municipal colleges, and universities. The
45 term shall not include State, county, or local governmental units,
46 authorities or corporations created by such units, and shall not include

1 a “qualifying governmental body” as defined in section 2 of P.L.1985,
2 c.410 (C.52:16A-26.2).

3 “Trust Fund” means the permanent investment fund established by
4 the Board of Trustees of the Cultural Trust as provided in section 8 of
5 this act.

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

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

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

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

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

46 d. Six public members shall be appointed by the Governor with the

1 advice and consent of the Senate. The term of office of each public
2 member appointed pursuant to this subsection shall be five years,
3 except for the initial appointments, which shall be made as follows:
4 two members shall be appointed for a three-year term, two members
5 shall be appointed for a four-year term, and two members shall be
6 appointed for a five-year term.

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

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

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

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

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

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

41 k. A true copy of the minutes of every meeting of the board or the
42 executive committee shall be delivered promptly, after the certification
43 of the chair thereof, to the Governor. No action taken at a meeting by
44 the board or the executive committee shall have effect until approved
45 by the Governor or until 10 days after the copy of the minutes shall
46 have been delivered. If, within the 10-day period, the Governor

1 returns the copy of the minutes with a veto of any action taken by the
2 board or the executive committee or any member thereof at a meeting,
3 such action shall be null and void and of no effect. The Governor may
4 approve all or part of the action taken at a meeting prior to the
5 expiration of the 10-day period.

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

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

17

18 6. The board is hereby authorized and empowered:

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

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

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

44 d. To cooperate with and assist and receive assistance from, insofar
45 as practicable, any agency of the State or any of its political
46 subdivisions, and any private agency or person in the furtherance of

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

1 the State as the Secretary of State may designate;

2 p. To sell, convert, assign, develop, or otherwise dispose of any and
3 all necessary assets or property donated to the Cultural Trust, as
4 needed, for the purposes of this act. Any moneys gained by the sale
5 of these assets or property shall be deposited into the Trust Fund;

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

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

10

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

27

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

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

42 (2) Moneys deposited in the Trust Fund shall be held in investment
43 accounts in public depositories as defined pursuant to section 1 of
44 P.L.1970, c.236 (C.17:9-41), and shall be invested or reinvested in a
45 manner approved by the Director of the Division of Investment and the
46 State Treasurer in consultation with the board. Interest or other

1 income earned on moneys deposited in the Trust Fund, and any
2 moneys which may otherwise become available for the purposes of the
3 Cultural Trust, shall be for the use of the Cultural Trust, as set forth
4 in this act.

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

12 (2) None of the interest derived from the moneys held in the Trust
13 Fund shall be disbursed to qualified organizations by the board until
14 the Trust Fund has received donations and transfers totaling not less
15 than \$20,000,000, or one year from the effective date of this act,
16 whichever occurs later. However, nothing in this paragraph shall
17 prohibit the board from disbursing moneys from the Trust Fund
18 pursuant to section 9 of this act prior to the Trust Fund reaching
19 \$20,000,000.

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

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

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

45 (6) All property of the Cultural Trust is declared to be public
46 property devoted to an essential public and governmental function and

1 purpose, and the Cultural Trust shall be exempt from all taxes and
2 special assessments of the State or any political subdivision thereof.

3 (7) For the purposes of efficiency and convenience, nothing in this
4 act shall prohibit the board from combining the project lists, in whole
5 or in part, of the Council, the Historic Trust, or the Commission into
6 one proposed resolution to be considered by the board.

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

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

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

23

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

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

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

1 consistent with the purposes of this act. A restricted donation given
2 directly to a qualified organization on or after January 1, 2000 but
3 before the effective date of this act may be considered a restricted
4 donation for the purposes of this act and shall result in a transfer from
5 the Account to the Trust Fund at such time as may be appropriate
6 provided the requirements of this act are met.

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

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

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

43
44 12. At least once each State fiscal year after the board has
45 determined that sufficient interest has accrued to provide grants to
46 qualified organizations, the Commission shall submit to the board a list

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

12

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

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

22

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

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

39

40 15. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill establishes the New Jersey Cultural Trust.

46 According to the bill, its purpose is to ensure a stable and healthy

1 cultural climate in this State that is sustainable for years to come and
2 under fluctuating economic conditions. Therefore, a permanent,
3 interest-generating fund is created to be an additional source of
4 revenue to non-profit arts, history, and humanities organizations,
5 specifically for the building of endowments, the improvement of
6 institutional and financial stability, and the capital improvement of
7 cultural facilities.

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

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

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

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

1 For State fiscal years 2001 through 2010, the State Treasurer will
2 transfer money from the Account to the Trust Fund based upon
3 donations to the Cultural Trust and to qualified organizations as
4 determined in the act. The State Treasurer will transfer to the Trust
5 Fund an amount equal to the amount of the donations, subject to the
6 availability of moneys in the Account. None of the interest derived
7 from the moneys held in the Trust Fund will be disbursed to qualified
8 organizations by the board until the Trust Fund has received donations
9 and appropriations totaling not less than \$20 million, or one year after
10 the act's enactment, whichever occurs later.

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

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

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

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

1 will approve the list. This approved project list will receive moneys
2 from the Cultural Trust.

3 All qualified organizations receiving moneys from the Cultural Trust
4 will enter into an agreement with the board for monitoring the
5 allocation and use of moneys to ensure that such moneys are held and
6 used consistent with the purposes of this bill.

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

10

11

12

13

14 Establishes New Jersey Cultural Trust.

CHAPTER 76

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

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.52:16A-72 Short title.

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

C.52:16A-73 Findings, declarations relative to the New Jersey Cultural Trust.

2. The Legislature finds and declares that:

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

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

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

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

C.52:16A-74 Definitions relative to the New Jersey Cultural Trust.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Trust Fund” means the permanent investment fund established by the Board of Trustees of the Cultural Trust as provided in section 8 of this act.

C.52:16A-75 "New Jersey Cultural Trust."

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

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

C.52:16A-76 Board of Trustees.

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

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

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

d. Six public members shall be appointed by the Governor with the advice and consent of the Senate. The term of office of each public member appointed pursuant to this subsection shall be five years, except for the initial appointments, which shall be made as follows: two members shall be appointed for a three-year term, two members shall be appointed for a four-year term, and two members shall be appointed for a five-year term.

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

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

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

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

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

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

k. A true copy of the minutes of every meeting of the board or the executive committee shall be delivered promptly, after the certification of the chair thereof, to the Governor. No action taken at a meeting by the board or the executive committee shall have effect until approved by the Governor or until 10 days after the copy of the minutes shall have been delivered. If, within the 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the board or the executive committee or any member thereof at a meeting, such action shall be null and void and of no effect. The Governor may approve all or part of the action taken at a meeting prior to the expiration of the 10-day period.

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

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

C.52:16A-77 Authority, powers of board.

6. The board is hereby authorized and empowered:

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

b. To solicit, receive, and accept appropriations, gifts, donations, legacies, bequests, and

endowments from public or private sources for any purpose which falls within the purposes of the Cultural Trust. The Cultural Trust may not acquire, hold, receive, or accept any moneys or other property, real or personal, tangible or intangible, which will result in the incurrence of any financial obligations on the part of the State that cannot be supported entirely from funds available in the Trust Fund without the express approval of the State Treasurer in consultation with the Secretary of State;

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

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

e. To evaluate and certify any and all donations made to the Cultural Trust or a qualified organization for purposes of the transfer of moneys from the Account to the Trust Fund pursuant to section 9 of this act;

f. To accept or reject any recommendation on a project list submitted solely by the Council, the Historic Trust, or the Commission that will support the financing of capital facilities projects or endowments, or contribute to the institutional and financial stability of qualified organizations. The board as a whole or any of its members may not recommend any project for funding that has not either received a restricted donation as set forth in section 9 of this act or been recommended for funding by the Council, the Historic Trust, or the Commission on a project list submitted pursuant to section 10, 11 or 12 of this act;

g. To consult with the Director of the Division of Investments in the Department of the Treasury and the State Treasurer regarding the investment strategies for the moneys in the Trust Fund established by the board pursuant to section 8 of this act;

h. To make and enter into any and all contracts and agreements for goods and services and to enter into any and all contracts and agreements or to execute any instrument with individuals, organizations, institutions, or public agencies for services or endeavors furthering the Cultural Trust;

i. To determine the portion of the interest generated by moneys in the Trust Fund that will be made available for distribution to qualified organizations, and to distribute these moneys as necessary and appropriate pursuant to sections 10, 11 and 12 of this act;

j. To prepare and implement a fiscal plan for the Cultural Trust;

k. To prepare and submit an annual funding request for an appropriation from the General Fund for the operational and administrative costs of the board and the Cultural Trust to the Governor through the Department of State and the Division of Budget and Accounting in the Department of the Treasury, and to expend or authorize the expenditure of moneys derived from such sources and funds as are appropriated by the Legislature to implement the provisions of this act;

l. To hire and employ such employees, in consultation with the Secretary of State, as may be necessary or desirable in its judgment to carry out the purposes of this act, to fix their compensation, and to promote and discharge said employees, without regard to the provisions of Title 11A of the Revised Statutes;

m. To sue and be sued in its own name, but the board members shall be held harmless for acts performed in good faith;

n. To adopt a seal and alter the same at its pleasure;

o. To maintain an office or offices at such a place or places within the State as the Secretary of State may designate;

p. To sell, convert, assign, develop, or otherwise dispose of any and all necessary assets or property donated to the Cultural Trust, as needed, for the purposes of this act. Any moneys gained by the sale of these assets or property shall be deposited into the Trust Fund;

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

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

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

C.52:16A-79 "New Jersey Cultural Trust Account;" "New Jersey Cultural Trust Fund."

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

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

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

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

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

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

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

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

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

(7) For the purposes of efficiency and convenience, nothing in this act shall prohibit the board from combining the project lists, in whole or in part, of the Council, the Historic Trust, or the Commission into one proposed resolution to be considered by the board.

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

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

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

C.52:16A-80 Donations to Cultural Trust, matching State appropriation.

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

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

b. (1) a restricted donation which is money, property, or other object with monetary value given directly to a qualified organization that is expressly dedicated for endowment. The State Treasurer shall transfer from the Account to the Trust Fund an amount equal to the restricted donation once (a) the board approves a letter of donation or intent to donate, designating the amount of the donation and the name of the financial institution from which the moneys were allocated, with the account number, or a certified appraisal, deed, or other appropriate documentation in the case of property, (b) the board is provided with the name of the qualified organization to which the donation was made and a certification from that qualified organization that the donation was in fact received by the qualified organization, and (c) the board determines and certifies to the State Treasurer that the donation is consistent with the purposes of this act. A restricted donation given directly to a qualified organization on or after January 1, 2000 but before the effective date of this act may be considered a restricted donation for the purposes of this act and shall result in a transfer from the Account to the Trust Fund at such time as may be appropriate provided the requirements of this act are met.

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

C.52:16A-81 Council's recommendations for funding.

10. At least once each State fiscal year after the board has determined that sufficient interest

has accrued to provide grants to qualified organizations, the Council shall submit to the board a list of capital facilities, endowment, and financial stabilization projects which the Council recommends to receive funding from the Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the Council pursuant to this act and P.L.1966, c.214 (C.52:16A-25 et seq.) and any rules or regulations adopted pursuant thereto. The board shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established by the board for such deletions pursuant to this act, whereupon the board shall approve the list. This approved project list shall receive moneys from the Cultural Trust for the purposes of effectuating this act.

C.52:16A-82 Historic Trust's recommendations for funding.

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

C.52:16A-83 Commission's recommendations for funding.

12. At least once each State fiscal year after the board has determined that sufficient interest has accrued to provide grants to qualified organizations, the Commission shall submit to the board a list of endowment and financial stabilization projects that the Commission recommends to receive funding from the Trust Fund, based upon a priority system, ranking criteria, and funding policies established by the Commission pursuant to this act and N.J.S.18A:73-21 et seq. any rules or regulations adopted pursuant thereto. The board shall review the list and may make such deletions, but not additions, of projects therefrom as it deems appropriate and in accordance with the procedures established by the board for such deletions pursuant to this act, whereupon the board shall approve the list. This approved project list shall receive moneys from the Cultural Trust for the purposes of effectuating this act.

C.52:16A-84 Obligations of recipients.

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

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

C.52:16A-85 Regulations, annual funding request.

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

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

15. This act shall take effect immediately.

Approved July 25, 2000.

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Office of the Governor
NEWS RELEASE

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RELEASE: July 25, 2000

Governor Creates Stable Source of Funding for Arts, History and Humanities with Passage of New Jersey Cultural Trust into Law

Governor Christie Whitman today signed legislation at the War Memorial in Trenton to create the New Jersey Cultural Trust, ensuring a stable source of funding in New Jersey for the arts, history and humanities.

"Think of this trust as a cultural insurance policy - one that will protect our cultural treasures against economic downturns and shifting budget priorities," said Gov. Whitman at the annual meeting at the New Jersey State Council on the Arts. "That's important because when times are tough - as they were ten years ago - it can be nearly impossible for a theater or historical preservation organization to survive, let alone plan for the future."

Gov. Whitman said that the bill provides that \$100 million in state revenue over the next ten years be used to establish a permanent, interest-generating trust to be an additional source of revenue to non-profit arts, history and humanities organizations. The Governor had proposed the Cultural Trust in her budget address for the current fiscal year, which began July 1.

The additional revenue is slated to go above and beyond the state's support of the New Jersey State Council on the Arts, the New Jersey Historical Commission and the New Jersey Historic Trust. Organizations can use this money to build endowments, improve their institutional and financial stability, or make capital improvements at their facilities.

"Ten million dollars a year in state revenue is a big commitment, but we're not in this alone, said Gov. Whitman. "The trust is truly a public-private partnership because the state will match private contributions dollar for dollar. Over ten years, for instance, that's \$200 million in state and private money generating revenue for the arts, history, and humanities in New Jersey."

"Contributors can give directly to the Cultural Trust or to the endowment of a favorite non-profit cultural organization," continued the Governor. "Any gift - no matter how large or small - triggers the release of state funds into the Cultural Trust."

The bill, A-48, which establishes the New Jersey Cultural Trust, was sponsored by Assembly Members Leonard Lance (R-Warren/Hunterdon/Mercer) and Rose Marie Heck (R-Bergen) and Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Bernard F. Kenny, Jr. (D-Hudson).

Comparing the legislation to a work of art, the Governor thanked the bill's legislative sponsors, including Senate President Donald DiFrancesco for his leadership; her staff, especially Carol Cronheim, who now serves as Deputy Chief of the Office of Policy and Planning; the Department of State as well as the members of the arts and history communities for their hard work. The creation of the Cultural Trust was recommended by the Historical Commission, the Historic Trust and the Arts Council.

Gov. Whitman also pointed out that this year's arts budget is \$20 million, which is the largest in a decade, and reiterated her administration's commitment to supporting culture. Other initiatives include the Discover Jersey Arts media campaign; the Jersey Arts hotline, website and resource guide; the funding of the Historic Trust to preserve the state's historical treasures, and the first-ever operating grants for history.

The Governor ended her remarks by encouraging New Jerseyans to support the state's cultural community with their eyes, ears, participation and patronage - and used the opportunity to thank the Dodge Foundation for making the first donation to the Cultural Trust.

"I encourage all of you to Discover Jersey Arts and history," said Gov. Whitman. "Take in a museum or spend some time visiting an historic location. Attend a play, hear a concert, see an opera, or listen to a poetry reading. Take advantage of all that's around us and let New Jersey's vibrant culture touch you."

The Cultural Trust will be "in, but not of" the Department of State and will be administered by a 15-member board of trustees with public and private members. Both the Arts Plan New Jersey, which was released in 1998, and the New Jersey History Task Force Report of 1997 advocated for the creation of the Trust fund.

While the bill takes effect immediately, it recognizes donations that were made retroactive to January 1, 2000 to qualified organizations for the Trust. Under the legislation, contributors are allowed to give money directly to the Trust, with the State matching their gifts, or directly to the endowment of a particular organization. In the latter case, the money would stay with the organization, but the State would match the donation with a deposit in the Trust fund.