

# STATE OF NEW YORK

8491--A

## IN SENATE

February 6, 2024

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the arts and cultural affairs law, in relation to establishing the New York state museum partnership trust

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings and intent. The legislature finds that  
2 the New York state museum is a vital interest of the state, enabling us  
3 to pass New York's past and present on to our children and our chil-  
4 dren's children. The museum welcomes visitors to explore its rotating  
5 and permanent exhibitions. The museum also offers educational program-  
6 ming, including after-school programs that have benefited more than  
7 4,000 students in the city of Albany. The museum is essential for educa-  
8 tion, public programs, and generating tourism and economic activity.  
9 Unfortunately, present conditions inhibit its ability to thrive and  
10 serve New Yorkers to its fullest potential. Therefore, it is the purpose  
11 of this act to support the museum's operations and align its oversight  
12 structure with that of the other departments under the office of  
13 cultural education at the state education department. Both the New York  
14 state library and the New York state archives benefit from the support  
15 of an affiliated trust that obtains non-state funding to supplement the  
16 operations and programming of the library and archives, respectively. It  
17 is time to bring the New York state museum in line with the other divi-  
18 sions of the office of cultural education at the state education depart-  
19 ment. To accomplish this, a New York state museum partnership trust is  
20 created in order to: create an endowment to help collect and preserve  
21 art, historical items, objects of material culture, natural history  
22 specimens, and other objects that tell the story of the people who call  
23 New York home; make possible special projects and inform the citizens of  
24 New York about the exhibits and programs of the state museum; and work  
25 in conjunction with the board of regents, the office of cultural educa-  
26 tion at the state education department, the commissioner of education,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 and the museum advisory council under the board of regents to advise and  
2 support the New York state museum.

3 § 2. The arts and cultural affairs law is amended by adding a new  
4 title Q to read as follows:

5 TITLE Q

6 NEW YORK STATE MUSEUM PARTNERSHIP TRUST

7 ARTICLE 45

8 NEW YORK STATE MUSEUM PARTNERSHIP TRUST

9 Section 45.01. Short title.

10 45.03. Definitions.

11 45.05. New York state museum partnership trust.

12 45.07. Purpose and powers of trust.

13 45.09. Temporary assignment and transfer of employees.

14 45.11. Authorized expenditures.

15 45.13. New York state museum partnership trust fund.

16 45.15. Creation of trust for a public purpose.

17 45.17. Members and employees not to profit.

18 § 45.01. Short title. This title shall be known and may be cited as  
19 the "New York state museum partnership trust act".

20 § 45.03. Definitions. For the purposes of this article, the following  
21 terms shall have the following meanings:

22 1. "Trust" or "corporation" shall mean the New York state museum part-  
23 nership trust established by section 45.05 of this article.

24 2. "Board" shall mean the members of the corporation appointed pursu-  
25 ant to section 45.05 of this article.

26 3. "Trust fund" or "fund" shall mean the New York state museum part-  
27 nership trust fund established in section 45.13 of this article.

28 § 45.05. New York state museum partnership trust. 1. A trust to be  
29 known as the New York state museum partnership trust is hereby estab-  
30 lished. Such trust shall be governed by a board which shall be a body  
31 corporate and politic constituting a public benefit corporation and its  
32 existence shall commence upon the appointment of the members as herein  
33 provided. Such board shall consist of twenty total members to be  
34 appointed as follows: five members appointed by the governor; five  
35 appointed by the board of regents; four appointed by the majority leader  
36 of the senate, two of whom shall be private citizens; four appointed by  
37 the speaker of the assembly, two of whom shall be private citizens; and  
38 one appointed each by minority leaders of the senate and assembly.  
39 Members shall be appointed for their interest in the art, history,  
40 culture and natural history of New York; their knowledge and experience  
41 regarding resources for cultural and educational programs; and their  
42 support for the purposes of the museum partnership trust. Members shall  
43 be appointed no later than ninety days following an appropriation made  
44 by the legislature for the purposes of this article.

45 2. At the first meeting of the board and the first meeting thereof in  
46 each two fiscal years thereafter, the members of the board shall choose  
47 from their members, a chairperson and vice-chairperson. Initial appoint-  
48 ments shall be for staggered terms; appointments by the governor shall  
49 be for three-year terms; appointments by the legislative leaders shall  
50 be for two-year terms; appointments by the board of regents shall be for  
51 one-year terms. All subsequent terms shall be for three years. Members  
52 may be reappointed and may serve two consecutive full terms, in addition  
53 to the term of the initial appointments, but not more than eight consec-

1 utive years. Each member shall continue in office until such member's  
2 successor has been appointed and qualifies. Such continuation in office  
3 shall not be counted in determining whether a member has served eight  
4 consecutive years. In the event of a vacancy occurring in the office of  
5 any member, other than by the expiration of a member's term, such vacan-  
6 cy shall be filled for the balance of the unexpired term, if applicable,  
7 in the same manner as the original appointment. Members from government  
8 shall be replaced if they leave government service; a new appointee  
9 shall serve for the unexpired term of the departing member and may be  
10 reappointed.

11 3. A majority of the whole number of members then in office shall  
12 constitute a quorum for the transaction of any business or the exercise  
13 of any power of the board. Except as otherwise specified in this arti-  
14 cle, for the transaction of any business or the exercise of any power of  
15 the board, the board shall have power to act by a majority of members  
16 present at any meeting at which a quorum is in attendance. The board may  
17 delegate to one or more of its members, or to its officers, agents and  
18 employees, or to its executive committee, such powers and duties as the  
19 board may deem proper. The members of the board shall serve without  
20 compensation, but shall be entitled to reimbursement of their actual and  
21 necessary expenses incurred in the performance of their official duties.

22 4. Notwithstanding any inconsistent provision of this or any other  
23 law, general, special or local, no officer or employee of the state, or  
24 of any public corporation as defined in the general construction law,  
25 shall be deemed to have forfeited or shall forfeit their office or  
26 employment or any benefits provided under the retirement and social  
27 security law or under any public retirement system maintained by the  
28 state or any of its subdivisions by reason of their acceptance of  
29 membership on or chairmanship of the board.

30 5. The trust and its corporate existence shall continue until termi-  
31 nated by law, provided, however, that no such law shall take effect so  
32 long as the trust shall have bonds, notes and other obligations  
33 outstanding, unless adequate provision has been made for the payment  
34 thereof in the documents securing the same. Upon termination of the  
35 existence of the trust, all its rights and properties shall vest in the  
36 state.

37 § 45.07. Purpose and powers of trust. 1. The purpose of the trust  
38 shall be to serve as a focal point for the receipt and administration of  
39 private gifts, devises and bequests of real and personal property  
40 donated to use the arts, history, and material culture to help New York-  
41 ers and visitors understand the world in which we live, and to oversee  
42 and support the state museum in conjunction with the board of regents,  
43 the office of cultural education at the department of education, the  
44 commissioner of education, and the museum advisory council under the  
45 board of regents.

46 2. To carry out such purposes under subdivision one of this section,  
47 the trust shall:

48 (a) Oversee, and participate actively in, a campaign to secure private  
49 and public funds to create an initial endowment;

50 (b) Review and approve a budget request and work plan annually for the  
51 operation of the board and for the use of trust funds to support the  
52 purposes of the trust fund; and

53 (c) Report to the governor and the legislature at least every three  
54 years as to the activities of the trust including information pertaining  
55 to fund raising, expenditures and projects undertaken and the sufficien-

1 cy of the principal to generate interest adequate to achieve the  
2 purposes of the trust.

3 3. The trust shall have the power:

4 (a) To make and adopt official bylaws for the management and regu-  
5 lation of its affairs provided that such bylaws shall only be made,  
6 adopted or amended by a majority of the whole number of the members of  
7 the board then in office;

8 (b) To contract for and to accept assistance, including but not limit-  
9 ed to unconditional gifts, devises and bequests, and, with the approval  
10 of the governor, conditional gifts, devises and bequests, of real or  
11 personal property for art, material culture, historic preservation,  
12 natural history studies, environmental education and to administer and  
13 expend funds made available to the corporation for any of its purposes;

14 (c) To make and execute contracts and all other instruments necessary  
15 or convenient for the exercise of its powers and functions under this  
16 article;

17 (d) To appoint officers, agents and employees, and prescribe their  
18 duties and qualifications and fix their compensation;

19 (e) To contract for professional and technical assistance and advice;

20 (f) To provide in its official bylaws for the holding of an annual  
21 meeting, at which annual meeting a majority of the whole number of the  
22 members of the board then in office may transact any business or exer-  
23 cise any power of the board;

24 (g) To invest and reinvest moneys as provided in this article and to  
25 enter into agreements with the state comptroller concerning the transfer  
26 of moneys among the various accounts;

27 (h) To create committees, including an executive committee composed of  
28 not fewer than five members of the board including one of the members  
29 appointed by the governor, one of the members appointed by the majority  
30 leader of the senate, one of the members appointed by the speaker of the  
31 assembly and one of the members appointed by the board of regents, and  
32 special committees, to carry out its business effectively and may also  
33 create task forces, regional campaign committees, and other bodies made  
34 up of individuals beyond its own members to assist in the work of the  
35 board;

36 (i) To exercise and perform such other powers and duties as shall have  
37 been or may be from time to time conferred by law;

38 (j) To participate and cooperate with other public and private agen-  
39 cies having mutual interests and purposes in appropriate programs and  
40 projects intended to preserve and improve the history, arts and cultural  
41 resources of the New York state museum in furtherance of the education,  
42 welfare and enjoyment of its people;

43 (k) To sue and be sued; and

44 (l) To do all things necessary or convenient to carry out the purposes  
45 of this article.

46 § 45.09. Temporary assignment and transfer of employees. Whenever in  
47 the opinion of the board it would be in the public interest, it may,  
48 after prior approval of the director of the budget, request the tempo-  
49 rary assignment and transfer of certain employees of any other board,  
50 commission, agency or department of the state or its political subdivi-  
51 sions, and such other board, commission, agency or department, if in its  
52 opinion such transfer will not interfere with the performance of its  
53 duties and functions may make such assignment and transfer of such  
54 employees to the trust. Such assignment and transfer or extension there-  
55 of shall not in any way affect the civil service status, continuity of

1 service, retirement plan status, right to compensation, grade or compen-  
2 sation or other rights or privileges of any employee so transferred.

3 § 45.11. Authorized expenditures. The trust may make expenditures from  
4 the trust fund, subject to availability of fund monies, provided such  
5 expenditures are within a budget approved by the board and are not  
6 otherwise restricted by law, for the following purposes:

7 1. Support for a development campaign to obtain donations from non-  
8 state government sources including private citizens, foundations, organ-  
9 izations and the federal government and for expenses for the meetings  
10 and operation of the board and the trust;

11 2. Internships to students in New York state who are preparing for  
12 careers in museums and fellowships to expert practitioners in museum  
13 preservation and curation and educational programs under the direction  
14 of the professional staff of the New York state museum;

15 3. Hiring an executive director to administer the funds of the trust,  
16 which may include the hiring of expert staff in preservation, curation,  
17 and public and educational programs; and

18 4. Purchase of supplies and services and purchase or lease of equip-  
19 ment needed for activities authorized by this article.

20 § 45.13. New York state museum partnership trust fund. 1. There is  
21 hereby established in the custody of the trust a special fund to be  
22 known as the "New York state museum partnership trust fund". The trust  
23 shall establish the following three separate and distinct accounts with-  
24 in the New York state museum partnership trust fund: the endowment  
25 account, and the special project account, which shall each be in the  
26 custody of the trust, and the operation and maintenance account, which  
27 shall be in the joint custody of the state comptroller and the commis-  
28 sioner of taxation and finance.

29 2. Moneys in the trust fund shall consist of appropriations therefor  
30 and donations which may include any form of equity, fixed income securi-  
31 ties, insurance or any other asset convertible into cash, and earnings  
32 thereon. Pursuant to agreements made at least annually between the  
33 trust board and the state comptroller, the trust shall transfer suffi-  
34 cient funds from the endowment account to the operation and maintenance  
35 account for the timely payment of estimated costs and operating expenses  
36 pursuant to budgets adopted by the trust.

37 3. Earnings from the endowment account may be used by the trust board  
38 for its operation and for the other purposes authorized in this article.  
39 Moneys in the endowment account, and earnings thereon, may be invested  
40 and reinvested by the trust board consistent with the prudent investor  
41 standard of section 11-2.3 of the estates, powers and trusts law and  
42 pursuant to the provisions of section twenty-nine hundred twenty-five of  
43 the public authorities law. The trust board shall give due consideration  
44 to balancing the long-term growth of the endowment, long-term trends of  
45 the economy and the needs of trust operations and the state archives  
46 with the goal that the endowment shall provide a permanent, growing and  
47 viable source of funds to fulfill the trust purposes. The trust board  
48 shall obtain an annual independent audit and audited financial statement  
49 of the books and accounts of the trust, by a certified accounting firm.

50 4. Moneys in the special project account shall be used for carrying  
51 out the special projects designated in the donation thereof.

52 5. The trust is intended to supplement, not replace or reduce, regular  
53 state appropriations to the state museum. The state may match the first  
54 five million dollars donated to the endowment account in any fiscal year  
55 following the receipt of moneys.

1 § 45.15. Creation of trust for a public purpose. It is hereby found,  
2 determined and declared that the creation of the trust and the carrying  
3 out of its corporate purposes is in all respects for the benefit of the  
4 people of the state of New York, for the preservation and improvement of  
5 the history, arts and cultural resources through the state museum, and  
6 is a public purpose, in that the trust will be performing an essential  
7 governmental function in the exercise of the powers conferred upon it by  
8 this article and the trust shall not be required to pay taxes or assess-  
9 ments upon any of the property acquired by it or under its jurisdiction  
10 and control, or upon its activities in the operation and maintenance of  
11 such properties or use of any moneys, revenues or other income received  
12 by the corporation. All contributions of real or personal property made  
13 to the trust whether by gift, devise or bequest shall qualify as  
14 deductions in computing the net taxable income of the donor for the  
15 purposes of any income tax imposed by the state or any political subdi-  
16 vision thereof.

17 § 45.17. Members and employees not to profit. No officer, member or  
18 employee of the trust shall receive or may be lawfully entitled to  
19 receive any pecuniary profit from the operation thereof except reason-  
20 able compensation for services in effecting one or more of its purposes  
21 set forth under this article.

22 § 3. This act shall take effect immediately.