

HOUSE No. 2932

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

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

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

An Act establishing the Mohawk Trail Woodlands partnership.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>

HOUSE No. 2932

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 2932) of Stephen Kulik and others for legislation to establish the Mohawk Trail woodlands partnership fund. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing the Mohawk Trail Woodlands partnership.

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

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by inserted after section
2 2VVVV the following section:-

3 Section 2WWWW. There shall be established and set up on the books of the
4 commonwealth a separate fund to be known as the Mohawk Trail Woodlands Partnership Fund.
5 The fund shall be administered by the Mohawk Trail Woodlands Partnership Board as
6 established by the special act creating such board. There shall be credited into the fund revenues
7 or other financing sources directed to the fund by appropriation, bond revenues or other monies
8 authorized by the general court and specifically designated to be credited to that fund, any
9 income derived from the investing of amounts credited to the fund and the monies from the
10 repayment of loans from the fund, funds from public or private sources, including, but not
11 limited to, gifts, federal or private grants, donations, rebates and settlements received by the
12 commonwealth that are specifically designated to be credited to the fund and all other amounts

13 credited or transferred into the fund from any other source. Amounts credited to said fund shall
14 be held in an expendable trust and shall be used solely for implementing the purposes and
15 administration of Mohawk Trail Woodland Partnership as set forth in the special act creating
16 such partnership. Unexpended funds shall be allowed to carry over from year to year and be
17 expended in subsequent years without appropriation. No expenditure from the fund shall cause it
18 to be in deficiency.

19 SECTION 2. To capitalize the Mohawk Trail Woodland Partnership Fund established in
20 section 2WWW of Chapter 29 of the General Laws and support the goals of the Mohawk Trail
21 Woodland Partnership a total of \$6,000,000 shall be sought from either a general appropriation
22 or capital expenditure authorization, or a combination of the two.

23 SECTION 3. (a) For the purposes of this section, the following terms shall, unless the
24 context clearly requires otherwise, have the following meanings:-

25 “Participating Communities”, municipalities within the Mohawk Trail Woodlands
26 Partnership Eligibility Area that affirmatively vote to participate in the activities of the Mohawk
27 Trail Woodlands Partnership as described in subsection (c).

28

29 “Partnership”, a cooperative association among those entities and individuals working
30 collaboratively to achieve the purposes described in subsection (b) in the Mohawk Trail
31 Woodlands Partnership Area as described in subsection (c).

32 “Permanently protected open space”, land permanently protected from development and
33 includes state parks, state forests and state wildlife management areas, land owned by

34 conservation organizations for conservation purposes, town or city owned land under the
35 jurisdiction of the town or city conservation commission for park or conservation use, and
36 privately-owned farm and forestland protected through the Agricultural Preservation Restriction
37 Program or a conservation restriction.

38 “Sustainable forest management”, the carefully planned growing, management,
39 harvesting and regeneration of woodlands that conserves or promotes biological diversity,
40 ecological functions, soil productivity, water and air quality, carbon storage, and cultural
41 resources and recreational use of the forest while also providing a continuous yield of a range of
42 useable forest products. Sustainable forest management also considers the surrounding forest
43 landscape.

44 (b) The purposes of the Mohawk Trail Woodlands Partnership are:

45 (1) to support and expand sustainable forest management;

46 (2) to increase forest land conservation through conservation restrictions that encourage
47 sustainable forestry;

48 (3) to support and increase natural resource based economic development and
49 employment;

50 (4) to support and provide education and visitor information programs to increase public
51 understanding of and appreciation for the ecological, recreational and economic benefits of
52 forests;

53 (5) to support and promote the long term social and fiscal sustainability of the
54 Participating Communities in the area; and

55 (6) to create a long term partnership between towns and cities, regional organizations,
56 the executive office of energy and environmental affairs, and the United States Forest Service.

57 (c) (1) To achieve the purposes identified in subsection (b) there is hereby established the
58 Mohawk Trail Woodlands Partnership Area, which shall consist of 2 separate boundaries: (1) the
59 Mohawk Trail Woodlands Partnership Eligibility Area; and (ii) the Mohawk Trail Woodlands
60 Partnership Activities Area.

61 (2) The Mohawk Trail Woodlands Partnership Eligibility Area shall be comprised of the
62 lands defined by the municipal boundaries of Adams, Cheshire, Clarksburg, Florida, New
63 Ashford, North Adams, Peru, Savoy, Williamstown and Windsor in Berkshire county, and
64 Ashfield, Buckland, Charlemont, Colrain, Conway, Hawley, Heath, Leyden, Monroe, Rowe, and
65 Shelburne in Franklin county.

66 (3) The Mohawk Trail Woodlands Partnership Activities Area shall consist of the land in
67 those municipalities described in the Mohawk Trail Woodlands Partnership Eligibility Area that
68 have taken an affirmative vote of a town meeting or board of selectmen in towns or city council
69 or mayor in cities to participate in the activities of the Mohawk Trail Woodlands Partnership as
70 specified in the Partnership Plan as defined in subsection (g).

71 (4) Municipalities within the Mohawk Trail Woodlands Partnership Eligibility Area shall
72 have 2 years after the effective date of this act to affirmatively vote to participate in the activities
73 of the Mohawk Trail Woodlands Partnership and become Participating Communities.

74 Notwithstanding the preceding sentence, if a municipality within the Mohawk Trail Woodlands
75 Partnership Eligibility Area does not vote affirmatively to participate in the activities of the
76 Mohawk Trail Woodlands Partnership within 2 years after the effective date of this act, the

77 municipality may affirmatively vote to become a Participating Community after 5 years have
78 passed from the effective date of this act.

79 (5) The Mohawk Trail Woodlands Partnership Eligibility Area and the Mohawk Trail
80 Woodlands Partnership Activities Area may be expanded 5 years after enactment of this
81 legislation by a 2/3 vote of the entire partnership board, established pursuant to Subsection (e),
82 and a majority vote of the partnership board members from the Participating Communities after
83 the establishment of criteria for expansion by said partnership board. Criteria for expansion
84 should include such factors as geographic proximity, forestry and natural resources, and financial
85 capacity of the partnership.

86 (d) (1) Programs and activities of the Mohawk Trail Woodlands Partnership shall, to the
87 extent possible, be conducted in partnership and collaboration between the units of federal, state
88 and local government, including but not limited to the United States Forest Service, the
89 commonwealth and its applicable subdivisions and others in accordance with the integrated
90 partnership plan specified in subsection (g).

91 (2) Nothing in this section shall be construed to diminish, enlarge, or modify any right of
92 the federal government, the commonwealth or any political subdivision thereof, to exercise civil
93 and criminal jurisdiction or to carry out federal, state, or local laws, rules, and regulations within
94 the lands and waters included in the Mohawk Trail Woodlands Partnership Eligibility Area.

95 (e) (1) There is hereby established the Mohawk Trail Woodlands Partnership Board
96 whose purpose shall be to coordinate the partnership activities of participating federal, state, and
97 local authorities and the private sector in the development and implementation of the programs

98 and activities identified in an integrated partnership plan for the Mohawk Trail Woodlands
99 Partnership Activities Area.

100 (2) The partnership board shall be composed of the following members:

101 (A) One individual, appointed by the respective board of selectmen or mayor, from each
102 of the Participating Communities.

103 (B) One individual, appointed by the Chief of the United States Forest Service, to
104 represent the United States Forest Service, provided that Federal legislation is enacted that
105 authorizes the participation of the United States Forest Service.

106 (C) One individual, appointed by the secretary of energy and environmental affairs, to
107 represent the executive office of energy and environmental affairs.

108 (D) One individual, appointed by the executive director of the Franklin Regional Council
109 of Governments to represent the Franklin Regional Council of Governments.

110 (E) One individual, appointed by the executive director of the Berkshire Regional
111 Planning Commission, to represent the Berkshire Regional Planning Commission.

112 (F) One individual, appointed by action of the board of directors of the Massachusetts
113 Forest Alliance Limited, to represent the Massachusetts Forest Alliance Limited.

114 (G) One individual, appointed by action of the chair of the Massachusetts Chapter of the
115 Yankee Division of the New England Society of American Foresters, to represent the
116 Massachusetts Chapter of the Yankee Division of the New England Society of American
117 Foresters.

118 (H) One individual, appointed by action of the board of directors of the Franklin Land
119 Trust, Inc., to represent the Franklin Land Trust.

120 (I) One individual, appointed by action of the board of directors of the Berkshire Natural
121 Resources Council, Inc., to represent the Berkshire Natural Resources Council.

122 (J) One individual, appointed by action of the board of directors of the Greater
123 Shelburne Falls Area Business Association, Inc., to represent the Greater Shelburne Falls Area
124 Business Association.

125 (K) One individual, appointed by action of the board of directors of Lever, Inc., to
126 represent Lever, Inc.

127 (L) One individual, appointed by action of the board of directors of the Deerfield River
128 Watershed Association, Inc., to represent the Deerfield River Watershed Association.

129 (M) One individual, appointed by action of the board of directors of the Hoosic River
130 Watershed Association, Inc., to represent the Hoosic River Watershed Association.

131 (N) Should the names of any entity of the aforementioned members change, the
132 replacement entity shall be considered a member subject to the appointment of the appointing
133 authority of that entity.

134 (O) Should any of the entities of the aforementioned members cease to exist, the
135 partnership board may, by majority vote, name a like entity to represent the interests of the
136 original member entity represented.

137 (P) The partnership board may, by 2/3 vote, allow additional members to the partnership
138 board, provided the mission of the additional member aligns with the purposes identified in

139 subsection (b) and also provided that no additional members shall be allowed if the total number
140 of members from those entities identified in clauses (B) through (O), exceeds those identified in
141 clause (A).

142 (3) (A) Members of the partnership board shall serve for terms of 3 years or until another
143 representative is appointed from said appointing entity.

144 (B) Members may be re-appointed to serve for multiple terms.

145 (4) The partnership board shall elect 1 of its members as chairperson and 1 as vice
146 chairperson. The term of office of the chairperson and vice chairperson shall be 3 years. The vice
147 chairperson shall serve as chairperson in the absence of the chairperson.

148 (5) Any vacancy on the partnership board shall be filled in the same manner in which the
149 original appointment was made.

150 (6) The partnership board shall meet no less than 2 times per year or at the call of the
151 chairperson or a majority of its members. Meetings shall be open to the public.

152 (7) A majority of the partnership board members shall constitute a quorum. For the
153 purposes of meeting quorum requirements, vacancies shall not be counted to determine a
154 majority.

155 (8) Each member of the partnership board shall be entitled to 1 vote which shall be equal
156 to every other member of the partnership board. All matters considered by the partnership board
157 shall be decided by an affirmative vote of a minimum of a majority of the members present,
158 except for those actions requiring a 2/3 vote as specified in this act.

159 (9) The partnership board shall:

160 (A) initiate the development and review of and approve the partnership plan as defined in
161 subsection (g);

162 (B) oversee implementation of the partnership plan as defined in subsection (g);

163 (C) annually review and approve an annual budget that identifies the sources and uses of
164 funds to implement the partnership plan. Said annual budget shall indicate funding levels for
165 each of the purposes identified in subsection (b);

166 (D) designate a legally established entity to serve as the administrative agent for the
167 Mohawk Trail Woodlands Partnership as set forth in subsection (f); and

168 (E) designate a legally established entity to serve as the fund manager for the Mohawk
169 Trail Woodlands Partnership Fund as described in subsection (h).

170 (10) The partnership board shall establish an executive committee of the members of the
171 partnership board. The executive committee shall consist of 5 members.

172 (A) The executive committee members shall consist of: 2 members appointed pursuant to
173 clause (A) of paragraph (2) to be elected by the partnership board; 1 member from the United
174 States Forest Service appointed pursuant to clause (B) of paragraph (2); 1 member from the
175 executive office of energy and environmental affairs appointed pursuant to clause (C) of
176 paragraph (2); and 1 member from the remaining members of the partnership board, appointed
177 pursuant to clauses (D) to (P), inclusive, of paragraph (2), to be selected by the partnership
178 board. The partnership board chair shall automatically be a member of the executive committee
179 thereby filling the executive committee membership requirement for that membership slot, such
180 that, if the partnership board chair is a member from a municipality appointed pursuant to clause

181 (A) of paragraph (2), there shall only be 1 other member from a municipality appointed pursuant
182 to said clause (A) of said paragraph (2) on the executive committee and such that if the
183 partnership board chair is a member appointed pursuant to clauses (D) to (P) inclusive, of said
184 paragraph (2) that member shall fulfill the executive committee membership requirement for
185 members appointed pursuant to clauses (D) to (P), inclusive, of said paragraph (2).

186 (B) The executive committee shall provide direction to the administrative agent to
187 conduct activities as described in subsection (f).

188 (C) The executive committee shall approve expenditures of the administrative agent as
189 they relate to the implementation of the partnership plan.

190 (D) The executive committee shall approve the staff of the administrative agent working
191 to implement the partnership plan.

192 (E) The executive committee shall provide regular reports to the partnership board.

193 (F) The executive committee may assume other responsibilities necessary to implement
194 the partnership plan.

195 (11) The partnership board shall prepare and adopt, by a 2/3 vote, bylaws covering
196 regular operating practices of the partnership board and the executive committee of the
197 partnership board.

198 (f) (1) Within 1 year after the date of enactment of this act and receipt of any federal or
199 state appropriation, the Mohawk Trail Woodlands Partnership Board shall designate an existing
200 or newly created non-profit entity to serve as the administrative agent for the Mohawk Trail
201 Woodlands Partnership. Provided funding is available, the administrative agent shall, under the

202 direction of the partnership board, implement the partnership plan. The Mohawk Trail
203 Woodlands Partnership Board shall have the authority to designate a different entity as
204 administrative agent by a 2/3 vote.

205 (2) The administrative agent shall, with the approval of the executive committee, be
206 entitled to receive and expend funds from the Mohawk Trail Woodlands Partnership Fund,
207 established in section 2WWW of chapter 29 of the General Laws and subject to the
208 requirements set forth subsection (h) for the purposes of implementing the partnership plan.

209 (3) For the purposes of implementing the partnership plan described in subsection (g)
210 and notwithstanding any other provision of law, the administrative agent of the partnership may
211 seek and accept donations of funds, grants, revenue, property, or services from individuals,
212 foundations, corporations, and other private and public entities for the purpose of carrying out
213 the partnership plan.

214 (4) For purposes of implementing the partnership plan described in subsection (g), the
215 administrative agent of the partnership may enter into cooperative agreements with the federal
216 government, the commonwealth, any political subdivision thereof, or with any organization or
217 person.

218 (5) The administrative agent of the partnership shall provide the partnership with such
219 staff and technical assistance considered appropriate to enable the implementation of the
220 partnership plan described in subsection (g). The administrative agent of the partnership may
221 accept the services of personnel detailed from the United States Forest Service, including any
222 branch or division of the United States Forest Service, the commonwealth, any political
223 subdivision of the commonwealth, any entity represented on the partnership board or any other

224 entity whose mission aligns with the purposes defined in subsection (b) , subject to the approval
225 of the partnership board.

226 (6) The administrative agent of the partnership may obtain by purchase, rental, donation,
227 or otherwise, such property, facilities, and services, including the acquisition of real property or
228 interest in real property, as may be needed to implement the partnership plan.

229 (g) (1) Within 3 years after the date of enactment of this act and receipt of sufficient
230 federal or state appropriations, the Mohawk Trail Woodlands Partnership shall develop a
231 partnership plan for the Mohawk Trail Woodlands Partnership Activities Area to be implemented
232 by the partnership. The plan titled, “Mohawk Trail Woodlands Partnership 2014-2015, A Plan
233 for Forest-Based Economic Development and Conservation” dated December 2015 (Updated
234 October 2016) shall serve as the interim partnership plan until such partnership plan is
235 developed.

236 (2) The partnership plan shall include but not be limited to each of the following:

237 (A) A resource assessment to include:

238 (i) an assessment of natural resources, including forest resources, agricultural resources,
239 water resources, important natural habitat areas, and important species;

240 (ii) an identification of conserved lands, including permanently conserved lands and
241 temporarily conserved lands; and

242 (iii) an assessment of recreational resources, including trails and associated recreational
243 support facilities.

244 (B) A socio-economic assessment of the participating municipalities, including
245 population, income and employment;

246 (C) A fiscal assessment of the municipalities in the Mohawk Trail Woodlands
247 Partnership Activities Area to include an assessment of municipal revenue, expenditures,
248 services and taxes;

249 (D) An assessment of existing programs and activities and associated entities, offered in
250 the Mohawk Trail Woodlands Partnership Activities Area including local, state, and federal
251 governmental units, nonprofit organizations and private interests that align with the purposes
252 defined in subsection (b);

253 (E) An identification of policies, programs and activities to achieve the purposes defined
254 in subsection (b), including those to:

255 (i) support and expand sustainable forest management in the Mohawk Trail Woodlands
256 Partnership Activities Area;

257 (ii) increase forest land conservation in the Mohawk Trail Woodlands Partnership
258 Activities Area;

259 (iii) support and increase forest and other natural resource based economic development
260 and employment, including natural resource-based tourism, in the Mohawk Trail Woodlands
261 Partnership Activities Area;

262 (iv) support educational and visitor information related to the Mohawk Trail Woodlands
263 Partnership Activities Area; and

264 (iv) support and promote the long term social and fiscal sustainability of the participating
265 municipalities in the Mohawk Trail Woodlands Partnership Activities area.

266 (F) A coordination and consistency component which details the ways in which
267 programs, activities and policies of local, state, and federal governmental units, nonprofit
268 organizations and private entities may best be coordinated to implement the partnership plan.

269 (G) A financial component, which details the costs and revenues of implementing the
270 partnership plan, including, but not limited to:

271 (i) costs to implement each of the programs and activities identified in clause (E);

272 (ii) associated capital costs;

273 (iii) associated operational costs, including costs of the administrative agent as defined in
274 subsection (f);

275 (iv) any anticipated extraordinary or continuing costs;

276 (v) details of the sources of revenue, including, but not limited to appropriations from
277 state and federal departments and agencies, investment or interest income, including receipts
278 from the Mohawk Trail Woodlands Partnership Fund described in subsection (h), grants,
279 donations, loans, loan repayments, receipts from the private sector, receipts from any income-
280 producing venture undertaken by the partnership, and other sources of revenue;

281 (vi) a 5 year timetable of projected revenues and expenditures; and

282 (vii) an identification of the projected revenue, including amounts and projected earnings
283 from the Mohawk Trail Woodlands Partnership Fund described in subsection (h), to ensure the
284 purposes of this section are sustained in perpetuity.

285 (3) In developing the partnership plan, the partnership shall:

286 (A) consult with appropriate officials of any local government or federal or state agency;

287 (B) consult with interested conservation, business, professional, and citizen
288 organizations; and

289 (C) conduct meetings for the purposes of providing interested persons with the
290 opportunity to comment on items contained in the partnership plan.

291 (4) The partnership board shall have authority to approve or disapprove the partnership
292 plan.

293 (5) The partnership board shall review the partnership plan, no less than annually. The
294 partnership plan shall be updated no less than every 10 years except that the partnership board
295 may by majority vote request the entire partnership plan or sections of the partnership plan be
296 updated at any time.

297 (h) (1) For the purposes of carrying out this section, the Mohawk Trail Woodlands
298 Partnership Fund established in section 2WWW of chapter 29 of the General Laws, may
299 accept and receive receipts and donations of funds from:

300 (i) any public or private source, including but not limited to gifts, grants, property,
301 supplies, revenue, or services from individuals, foundations, corporations, and other private or
302 public entities, including the commonwealth and agencies of the federal government;

303 (ii) federal appropriations if authorized by companion federal law, federal
304 reimbursements and grant-in-aid; and

305 (iii) interest and investment income earned from the Mohawk Trail Woodlands
306 Partnership Fund.

307 (2) Receipts into the Mohawk Trail Woodlands Partnership Fund may be invested to
308 generate income which may be utilized for any purpose consistent with the purposes of this act
309 and said section 2WWW of said chapter 29. Preference for investments of the Mohawk Trail
310 Woodlands Partnership Fund shall be given to those that advance the purposes set forth in
311 subsection (b).

312 (3) Funds from the Mohawk Trail Woodlands Partnership Fund shall be used as defined
313 in the Partnership Plan, as updated or amended and may include establishment of or support for
314 the following:

315 (i) An Investment Trust Fund to maintain the long term sustainability of the Mohawk
316 Trail Woodlands Partnership. A sufficient amount of funding shall be invested and maintained
317 in an Investment Trust Fund, as stated in the bylaws, to ensure the purposes of this section and
318 the activities of the partnership are sustained in perpetuity.

319 (ii) A multi-purpose center, known as the “Mohawk Trail Forestry Center” to provide
320 tourism services, technical assistance to forestry and tourism businesses and forest landowners,
321 research and development, marketing, public education and space for the Administrative Agent
322 as described in subsection (f);

323 (iii) One or more demonstration and research forests including those to be established
324 through agreement with the United States Forest Service or the executive office of energy and
325 environmental affairs and its agencies, or both the United States Forest Service or the executive
326 office of energy and environmental affairs, on an appropriate parcel of private, municipal or state
327 land to be used to research and demonstrate exemplary sustainable forest management to other
328 landowners and the public via tours, publications and other educational tools;

329 (iv) Forest land conservation via conservation restrictions and restriction monitoring with
330 landowners according to a model conservation restriction contained in the partnership plan
331 provided that boards of selectmen, in the case of a town, or the mayor, in the case of a city, in
332 participating municipalities where more than 40 per cent of the total land area of the municipality
333 is permanently protected open space must approve the purchase of a conservation restriction for
334 any land receiving funds from the Mohawk Trail Woodlands Partnership Fund;

335 (v) Revolving Loan Fund program to support forestry businesses;

336 (vi) Forest Viability Program with grants provided to forest based businesses or
337 landowners in exchange for temporary conservation restrictions on land development;

338 (vii) Municipal Cooperative Agreements that provide annual grants to participating
339 municipalities to support municipal services or operations related to the purposes of the
340 partnership as defined in subsection (b);

341 (viii) Forest management plans for private landowners;

342 (ix) Natural resource based recreation and tourism including promotion; and

343 (x) Reimbursement of costs incurred by the administrative agent, as defined in subsection
344 (f), to conduct activities related to the partnership.

345 (4) A qualified fund manager shall be selected by the partnership board to manage the
346 Investment Trust Fund, identified in section (h)(3)(i), according to appropriate standards to
347 achieve a rate of return consistent with the safety of the fund and with a preference for local and
348 regional investments that advance the purposes of the partnership set forth in subsection (b). The
349 fund manager shall prepare an annual report to the partnership board.

350 (5) There shall be an independent audit prepared annually for the Mohawk Trail
351 Woodlands Partnership Fund and associated Investment Trust Fund.

352 (6) Should the Mohawk Trail Woodlands Partnership cease to exist, the Mohawk Trail
353 Woodlands Partnership Fund and associated Investment Trust Fund shall be dissolved and assets
354 dispersed according to applicable state and federal law.

355 (i) No funds may be appropriated through this legislation for the United States
356 Government and its agency, the United States Forest Service to hold a fee interest in any real
357 property in the Mohawk Trail Woodlands Partnership Activities Area.