

LEGISLATIVE HISTORY CHECKLIST

NJSA: 32:32-1 to 32:32-11 "Statute of Liberty Trust Fund"

CHAPTER 57

Laws Of: 1987

Bill No: A3259

Sponsor(s): Arango and others

Date Introduced: October 30, 1986

Committee: Assembly: Housing
Senate: State Government

Amended during passage: Yes
Substituted for S2650 (not attached since identical to A3259). Amendments during passage denoted by asterisks.

Date of Passage: Assembly: October 27, 1986
Senate: December 18, 1986

Date of Approval: March 2, 1987

Following statements are attached if available:

Sponsor statement: Yes
Committee statement: Assembly Yes 10-23-86-- 2 statements
Senate Yes
Fiscal Note: No
Veto Message: No
Message on Signing: Yes
Following were printed:
Reports: No
Hearings: No
Agreement, mentioned in statements-- attached.

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ASSEMBLY, No. 3259

STATE OF NEW JERSEY

INTRODUCED OCTOBER 20, 1986

By Assemblymen ARANGO, FRANKS, Singer, Felice, Hendrickson,  
Assemblywoman Cooper and Assemblyman Schwartz

AN ACT creating a bi-state fund for the purpose of aiding homeless persons of the States of New York and New Jersey and supplementing Title 52 of the Revised Statutes.

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

1 1. The States of New York and New Jersey hereby find and  
2 determine that:

3 a. It is desirable, due to the special position of honor that Ellis  
4 and Liberty Islands occupy in our national heritage, to avoid  
5 conflicts regarding jurisdiction and sovereignty over those islands;

6 b. It is appropriate in this centennial year of the Statue of  
7 Liberty that the States of New York and New Jersey dedicate  
8 economic benefits attributable to Liberty and Ellis Islands to a  
9 purpose which is representative of the symbolic meaning of the  
10 national treasures located on those islands;

11 c. The homeless, because of the ease of access to interstate  
12 transportation and their inherently transient lifestyle, now travel  
13 frequently and unimpeded back and forth between the two states;

14 d. Homelessness is increasingly a regional problem that re-  
15 quires regional solutions, making it necessary and appropriate,  
16 therefore, for New York and New Jersey to work cooperatively in  
17 developing programs to address this urgent problem;

18 e. Accordingly, it is appropriate that New York and New Jersey  
19 annually dedicate the equivalent of the State and local tax revenues  
20 attributable directly to Ellis and Liberty Islands for the purpose  
21 of providing assistance to the homeless of New York and New  
22 Jersey; and,

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter printed in italics *thus* is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Senate committee amendments adopted December 8, 1986.**

23 f. Moreover, it is appropriate to create a bi-state fund, to receive  
 24 from each state the sums represented by such state and local tax  
 25 revenues and to effectuate the goals of the two states with respect  
 26 to providing assistance to the homeless of New York and New  
 27 Jersey.

1 2. As used in this act:

2 a. "Fund" means the "Statue of Liberty Trust Fund."

3 b. "Not-for-profit corporation" and "charitable organization"  
 4 means entities established pursuant to the not-for-profit corpora-  
 5 tion law of the State of New York, or pursuant to Title 15 or \*Title\*  
 6 16 of the Revised Statutes of the State of New Jersey, or Title 15A  
 7 of the New Jersey Statutes, or otherwise established for charitable  
 8 purposes pursuant to the laws of either state.

9 c. "Sponsor" means any of the following, whether they are  
 10 entities of New York or New Jersey: the New York Department of  
 11 Social Services, the New Jersey Department of Community Affairs,  
 12 any other appropriate agency with responsibility for the homeless,  
 13 counties, municipalities or other political subdivisions of either  
 14 state, not-for-profit corporations or charitable organizations.

15 d. "Homeless person" means a person without a domicile who  
 16 is unable to secure permanent and stable housing as determined  
 17 by the commissioner of the New York Department of Social  
 18 Services and the New Jersey Commissioner of Community Affairs.

19 e. "Homeless assistance" means financial assistance to sponsors  
 20 as defined in this section for costs, including but not limited to,  
 21 those associated with the provision of food, clothing, furnishings  
 22 or equipment to homeless persons; establishment, construction and  
 23 operation of housing for homeless persons, including eligible costs  
 24 for the development of homeless projects in accordance with the  
 25 provisions of Article 2A of the New York social services law,  
 26 \***[New Jersey Pamphlet Laws]**\* \*P. L.\* 1985, c. 48 (C. 55:13C-1  
 27 et seq.) and \*P. L.\* 1984, c. 180 (C. 52:27D-280 et \***[al.]**\* \*seq.\*),  
 28 and research relative to homeless persons.

1 3. There is created the "Statue of Liberty Trust Fund," which  
 2 shall be a public body corporate and politic, constituting a public  
 3 benefit corporation of the States of New York and New Jersey.  
 4 The fund and its corporate existence shall continue until terminated  
 5 by concurrent legislative action of the States of New York and  
 6 New Jersey, which shall also provide for the distribution of all  
 7 properties and rights held by the fund at the time of termination.

1 4. The purpose of the fund shall be for the receipt and admin-  
 2 istration of appropriations from the States of New York and New  
 3 Jersey as provided for herein, as well as grants-in-aid and gifts of

4 real and personal property, including money, from any source.  
5 whatsoever, to be used to provide food, shelter, and clothing and  
6 to otherwise provide aid to homeless persons within the States of  
7 New York and New Jersey, in accordance with the powers vested in  
8 it, as set forth in this act.

1 5. The fund shall have the following powers:

2 a. To acquire real property or interests therein by purchase,  
3 lease, gift, devise or bequest and to improve, develop or rehabilitate  
4 such property.

5 b. To acquire personal property, including money, by purchase,  
6 lease, gift, devise or bequest.

7 c. To administer or to sell, convey, lease or otherwise dispose  
8 of any real or personal property acquired by it and to invest or  
9 expend the proceeds thereof and any other moneys made available  
10 to it from any other source, in such a manner as shall be consistent  
11 with and in furtherance of its corporate purposes.

12 d. To rent, buy, sell and deal in goods and merchandise in any  
13 way connected with or appropriate for providing for the needs of  
14 homeless persons.

15 e. To undertake any work, including the furnishing of services,  
16 equipment and materials in connection with providing for the needs  
17 of homeless persons.

18 f. To appoint officers, agents and employees and to fix their  
19 compensation and to retain such expert legal, financial and other  
20 consultant services as it deems necessary to carry out its powers.

21 g. To cooperate and contract with such other public and private  
22 agencies as may be appropriate in assisting the fund in carrying  
23 out its corporate purposes.

24 h. To make contracts and to execute all necessary instruments  
25 to carry out its corporate purposes.

26 i. To request the New York Department of Social Services, the  
27 New Jersey Department of Community Affairs and other appro-  
28 priate agencies of each state to assist the fund in executing its  
29 responsibilities under this act. To this end, the fund shall seek the  
30 assistance of \***[said]**\* *the* departments and agencies for the fol-  
31 lowing: development of applications for funding; review of pro-  
32 posed operating plans; site reviews; determination of public need;  
33 development, negotiation and execution of contracts; and such  
34 other tasks as the fund may deem appropriate. \***[Said]**\* *The*  
35 departments and agencies shall cooperate with the fund to carry  
36 out such delegated tasks, to the extent funds are available for the  
37 administration thereof. The fund, to the extent possible, shall  
38 avoid duplicating existing or new programs of either state.

39 j. To sue and be sued to the extent permitted by the "New Jersey  
40 Tort Claims Act," N. J. S. 59:1-1 et seq., or the New York Court  
41 of Claims Act.

42 k. To have a seal and to alter it as it chooses.

43 l. To adopt measures and procedures to ensure that members  
44 of minority groups and women are provided meaningful oppor-  
45 tunity to participate in contracts funded by the fund.

46 m. To do all things necessary or convenient to execute its  
47 corporate powers.

48 n. Notwithstanding any other provision of this section, the fund  
49 shall not, in the exercise of its powers or responsibilities under  
50 this act, assume the legal title to projects developed to aid home-  
51 less persons pursuant to this act.

1 6. a. The fund shall be managed by an 11 member board of  
2 directors, five of whom shall be appointed by the Governor of  
3 New York and five of whom shall be appointed by the Governor  
4 of New Jersey. *\*The five directors appointed by the Governor of*  
5 *New Jersey shall be subject to the advice and consent of the Sen-*  
6 *ate.\** The 11th director, who shall be the chairperson of the board,  
7 shall be appointed jointly by the Governors of New York and New  
8 Jersey. Two directors shall be appointed by each governor to  
9 serve for initial terms of three years each, three directors shall  
10 be appointed by each governor to serve for initial terms of four  
11 years each, and the 11th director shall be appointed jointly by the  
12 governors to serve for a term of five years. All subsequent ap-  
12A pointments shall be for terms of five years. All terms shall com-  
12B mence upon the date of appointment.

13 b. Each director shall continue to hold office until a successor is  
14 appointed. The resignation of any director shall be filed with the  
15 governor who shall have made the appointment and shall be effec-  
16 tive when so filed. Vacancies occurring otherwise than by expira-  
17 tion of term of office shall be filled for the remainder of the unex-  
18 pired term in the same manner as the original appointment. A  
19 director may be removed from office in accordance with the laws  
20 of the state from which the appointment was made relating to the  
21 removal of public officers serving at the pleasure of the Governor.  
22 The jointly appointed director may be removed from office in  
23 accordance with the law of either the State of New York or the  
24 State of New Jersey relating to the removal of public officers  
25 serving at the pleasure of the Governor.

26 c. The board may appoint a vice chairperson and such other of-  
27 ficers as may be necessary or appropriate to accomplish its corpo-  
28 rate purposes and may adopt bylaws to govern its conduct and the  
29 operation of the fund. No action of the board shall be binding

30 unless taken at a meeting at which at least three members from  
31 each state are present and vote in favor thereof. The board may  
32 delegate to one or more of its members such powers as it may deem  
33 proper. Members of the board shall serve without compensation,  
34 but shall be entitled to reimbursement for their actual and  
35 necessary expenses incurred in the performance of their duties.

1 7. a. Within the limits of moneys available, the fund is hereby  
2 authorized to enter into contracts with sponsors to provide home-  
3 less assistance pursuant to the expenditure plan adopted by the  
4 board of directors of the fund as provided in this section. The  
5 fund may authorize sponsors in turn to enter into subcontracts  
6 with counties, municipalities, other political subdivisions, not-for-  
7 profit corporations and charitable organizations to provide home-  
8 less assistance.

9 b. The board of directors of the fund shall annually identify the  
10 specific funding objectives of the fund and shall adopt a plan for  
11 the expenditure of the resources of the fund. The plan shall identify  
12 those projects which meet the specific funding objectives of the  
13 fund and for which the fund intends to provide resources. The  
14 plan shall be submitted to the Governor of the State of New Jersey  
15 and the Governor of the State of New York and shall not become  
16 effective without the approval of both governors. The governors  
17 shall approve or reject in writing the plan within 30 days of the  
18 receipt of the plan; however, the failure of either governor to do  
19 so within the time period without requesting an extension in writ-  
20 ing of the period for approval or rejection shall be construed as  
21 approval of the plan by that governor.

22 c. The fund shall require that, in order to receive moneys pur-  
23 suant to this section, the recipient must submit an operating plan,  
24 which shall include, but not be limited to the following:

25 (1) The manner in which the homeless assistance funds  
26 shall be used;

27 (2) The manner in which the operating expenses of the  
28 facility providing services to homeless persons shall be met;

29 (3) The services to be provided to homeless persons, in-  
30 cluding procedures for intake, referral and outreach;

31 (4) Where appropriate, the respective responsibilities of  
32 the recipient and of the municipality in which the services  
33 facility is located, in connection with the services to be pro-  
34 vided;

35 (5) Where appropriate, a detailed description of the facility  
36 providing services or the facility proposed to be established;

37 (6) Evidence demonstrating that the activity to be per-  
38 formed under a contract pursuant to this section will comply

39 with existing local, state and federal laws and regulations; and  
40 (7) Such other information as the fund may deem necessary  
41 or appropriate.

42 d. Prior to entering into a contract with a recipient pursuant to  
43 this section, the fund shall determine that the recipient is a bona  
44 fide organization which shall have demonstrated by its past and  
45 current activities that it has the ability to satisfactorily provide  
46 service to homeless persons, that the organization is financially  
47 responsible, that the proposed homeless assistance project is  
48 financially viable and that the homeless assistance project has been  
49 determined to be appropriate for the needs of the homeless in the  
50 relevant community. In making this determination, the fund shall  
51 seek the assistance of the respective state departments and other  
52 appropriate agencies of each state with responsibility for programs  
53 for homeless persons.

54 e. Every contract entered into pursuant to this section for con-  
55 struction, renovation, rehabilitation or operation of housing for  
56 homeless persons shall contain a provision that in the event that  
57 the property which is the subject of the contract ceases to be used  
58 as housing for the homeless during a seven year period commencing  
59 with the date of the fund's written approval of occupancy of the  
60 housing, or any longer period of time as may be established in the  
61 contract, or in case of any other substantial violation, the fund  
62 may terminate the contract and may require the repayment of any  
63 moneys previously advanced to the recipient pursuant to the terms  
64 of the contract. In the case of any other contract, the period of  
65 performance shall be established by the fund.

66 f. The resources administered by the fund shall be apportioned  
67 equally between sponsors located within the State of New York  
68 and those located within the State of New Jersey.

1 8. a. Commencing with the State fiscal year commencing in  
2 calendar year 1987, and each fiscal year thereafter, as part of the  
3 state's budget process for the fiscal year, an appropriation shall  
4 be made by each state to the fund for the purpose of carrying out  
5 the purposes for which the fund was created.

6 b. (1) The annual appropriation by each state shall be an  
7 amount at least equal to the amount set forth in the annual certifi-  
8 cate of each state's tax administrator.

9 (2) On or before the first day of the month preceding the month  
10 during which the state's fiscal year commences, the tax adminis-  
11 trator shall deliver to his respective governor, the leaders of both  
12 houses of the Legislature and the chairperson of the fund an  
13 annual certificate setting forth the sum of: (a) his estimate

14 determined in accordance with this section, of the net amount of  
15 tax revenues collected by his respective state and its localities  
16 during the preceding calendar year from the state and local taxes  
17 enumerated in subsection c. of this section which are attributable  
18 directly to Ellis and Liberty Islands, which estimate shall be made  
19 on a net basis taking into account the costs of administering and  
20 collecting the state and local taxes attributable to the islands; and  
21 (b) all tolls and fees described in subsection c. of this section which  
22 are collected by his respective state and its localities and one-half  
23 the amount of the tolls and fees collected by joint agencies of the  
24 two states during that calendar year.

25 (3) The sum set forth in the annual certificate of the tax admin-  
26 istrator shall fix the amount of the required annual appropriation  
27 by the respective state to the fund. In making the estimate of the  
28 net collection during the calendar year of the state and local taxes  
29 attributable to Ellis and Liberty Islands, the tax administrators  
30 of the States of New York and New Jersey shall employ the uni-  
31 form procedures and methods that shall be adopted jointly by them  
32 for that purpose.

33 (4) The tax administrator of either state shall not be liable for  
34 any overestimation or underestimation of tax revenues or any over-  
35 statement or understatement of tolls or fees contained in any  
36 certification made pursuant to this act, and any material over-  
37 estimation or underestimation or any overstatement or under-  
38 statement, as the case may be, shall be taken into account sub-  
39 sequently by way of subtracting the amount of any such over-  
40 estimation or overstatement from or adding the amount of any  
41 such underestimation or understatement to certifications for sub-  
42 sequent calendar years.

43 c. (1) The collections of the following state and local taxes,  
44 presently or hereafter imposed, shall be taken into account for the  
45 purpose of the annual appropriation to be made by the states to  
46 the fund: (a) franchise taxes or business privilege or like taxes on  
47 the doing of business, (b) taxes imposed on the earnings or income  
48 of business entities (including corporations) or persons, and (c)  
49 sales and compensating use taxes.

50 (2) The tolls and fees which shall be taken into account for the  
51 purpose of the appropriation are those tolls and fees now or here-  
52 after collected by either state and its localities, and each state  
53 shall also take into account one-half of the amount collected by  
54 joint agencies thereof, for the use of bridges, roads or other land  
55 connections providing access to or from Ellis and Liberty Islands.



56 (3) The following rules shall apply for the purpose of determin-  
57 ing the amount, if any, of the tax revenues collected from the  
58 state and local taxes described in paragraph (1) of this subsection  
59 which are attributable directly to Ellis or Liberty Islands:

60 (a) If a state or locality, as part of its general state or local  
61 tax system, imposes such taxes on the islands, revenue attribu-  
62 tion to Ellis or Liberty Islands of the receipts from any such  
63 taxes collected by the state or its localities shall be made by  
64 applying the same factors, method or concept with respect to  
65 allocation or attribution which is used by that state or the  
66 locality thereof imposing such tax for the purposes of deter-  
67 mining allocation to that state or, if a local tax, to that locality;  
68 provided, however, such factors, method or concept shall be  
69 modified where appropriate to account for the fact that the  
70 allocation or attribution hereunder is not to the state or locality  
71 but to an area therein. In the case of revenues from sales and  
72 compensating use taxes, if the tax results from an event oc-  
73 ccurring on the islands, the state and local tax revenue de-  
74 rived therefrom shall be allocable to the islands; and

75 (b) In addition to the foregoing attribution of state and local  
76 taxes by the method set forth in subparagraph (a) above, the  
77 revenues collected from the following taxes, to the extent pres-  
78 ently or hereafter imposed by the states and their localities,  
79 and to the extent not included in subparagraph (a) above,  
80 shall, for the purpose of this section, be deemed to be attri-  
81 butable directly to the islands;

82 (i) State and local sales and compensating use taxes im-  
83 posed with respect to 1, the provision of water, sewerage,  
84 gas, electricity, telephone or like utilities or utility services  
85 when the utilities or utility services are used or consumed on  
86 Ellis or Liberty Islands, irrespective of the fact that the de-  
87 livery of the utilities or utility services occurs off the islands,  
88 2, the building of or the provision of access to or from Ellis  
89 or Liberty Islands, 3, the provisions of sightseeing tours to,  
90 of or around Ellis or Liberty Islands, or both, or transporta-  
91 tion to or from the islands, irrespective of the fact that the  
92 tour or transportation was purchased off the islands, 4, sales  
93 of food and beverages and other tangible personal property  
94 by providers of sightseeing tours to their patrons or by the  
95 providers of transportation to their passengers, 5, fuel and  
96 all other tangible personal property purchased by providers  
97 of tours or transportation and used directly in connection  
98 with the provision of tours or transportation. Where a

99 sightseeing tour or transportation includes other sites or  
100 destinations, such taxes shall be apportioned.

101 (ii) State and local sales tax imposed by either state or its  
102 localities with respect to the purchase of tangible personal  
103 property, services or other items which are used or con-  
104 sumed on Ellis or Liberty Island by persons residing thereon  
105 or in connection with a trade or business conducted thereon  
106 if with respect to the use or consumption there is due and  
107 owing state or local compensating use tax.

108 (iii) State and local franchise taxes or business privilege  
109 or like taxes on the doing of business or taxes imposed on  
110 the earnings or income of business entities (including cor-  
111 porations), in the case of business activities conducted in  
112 either state which consists of 1, providing water, sewerage,  
113 gas, electricity, telephone or like utilities or utility services  
114 where the utilities or utility services are used or consumed  
115 on Ellis or Liberty Islands, 2, the building of or the pro-  
116 vision of access to or from Liberty or Ellis Island or 3, con-  
117 ducting tour to, of or around Ellis or Liberty Islands, or  
118 both, or providing transportation to or from the islands.  
119 The portion of the State and local taxes derived from these  
120 business activities shall be attributable directly to Ellis and  
120A Liberty Islands.

121 (iv) 1, personal income taxes imposed by the states and  
122 their localities with respect to income, wages or earnings of  
123 resident individuals other than those residing on Ellis or  
124 Liberty Islands, derived from sources, including employ-  
125 ment or self-employment within or on Ellis or Liberty  
126 Islands, or with respect to the building of or the provision  
127 of access to or from the islands, the conducting of tours to,  
128 of or around Ellis or Liberty Islands, or both, or the pro-  
129 vision of transportation to or from the islands;

130 2, income or earnings taxes imposed by the states and  
131 localities thereof on nonresident individuals with respect to  
132 income, wages or earnings derived from sources, including  
133 employment or self-employment, within or on Ellis or Lib-  
134 erty Islands or with respect to the building of or the pro-  
135 vision of access to or from the islands or the conducting of  
136 tours to, of or around Ellis or Liberty Islands, or both, or  
137 the provision of transportation to or from the islands; and

138 3, nonresident income and earnings taxes imposed by  
139 either state or its localities with respect to individuals re-  
140 siding on Ellis or Liberty Islands.

1 9. a. The moneys of the fund shall be retained by the fund and  
2 deposited into a general account and other accounts as the fund  
3 may deem necessary for the transaction of its business and shall  
4 be paid out in checks signed by the chariperson of the fund or other  
5 officer thereof as the fund may authorize by a resolution of the  
6 fund board.

7 b. The Comptroller of the State of New York and the Treasurer  
8 of the State of New Jersey and their legally authorized representa-  
9 tives are hereby authorized and empowered, either jointly or in-  
10 dividually, from time to time, but not less than every two years, to  
11 examine the accounts and books of the fund, including its receipts,  
12 disbursements, contracts, investments and any other matters re-  
13 lating to its financial standing and shall make a report of the  
14 examination available to the legislative bodies of their respective  
15 states.

16 c. The fund shall not expend more than 5% of the annual ap-  
17 propriations made by the States of New York and New Jersey  
18 pursuant to section 8 of this act for the administration of the fund  
19 unless the fund shall have received prior written approval of the  
20 Governors of New York and New Jersey to expend a greater sum  
21 for the administration of the fund.

1 10. The directors, officers and employees of the fund shall, with  
2 respect to any claim arising out of or in connection with the exer-  
3 cise of their duties or in the course of their employment as direc-  
4 tors, officers or employees, be deemed to be officers or employees  
5 of the state where the claim arises, and any liability arising there-  
6 from shall be governed by the laws of that state.

1 11. a. It is hereby found, determined and declared that the crea-  
2 tion of the fund and the carrying out of its corporate purposes is  
3 in all respects for the benefit of the people of the States of New  
4 York and New Jersey and in furtherance of their welfare, and is a  
5 public purpose, in that the fund will be performing a governmental  
6 function in the exercise of the powers conferred upon it by this  
7 \***[article]**\* *act*.

8 b. The fund shall not be subject to pay taxes or assessments, by  
9 the State of New Jersey, the state of New York, or by any political  
10 subdivision of either of them, on any property acquired by it or  
11 under its jurisdiction and control, or upon its activities in the  
12 operation and maintenance of such properties or upon the use of  
13 any moneys, revenues or other income received by it, or upon its  
14 income, or upon any of its fees, charges, grants, gifts, appropria-  
15 tions, receipts or other moneys received or to be received.

16 c. All contributions of real and personal property made to the  
17 fund, whether by gift, devise or bequest, shall qualify as deductions

18 in computing the net taxable income of the donor for the purposes  
19 of any tax on or measured by income, or estate or gift tax, imposed  
20 by the States of New Jersey or New York or any political sub-  
21 division thereof, to the extent that such deductions are otherwise  
22 authorized by the law imposing such income, estate, or gift tax.

1 12. This act shall take effect immediately and remain inopera-  
2 tive until the date of approval by the Governor of the State of  
3 New York of concurrent legislation providing for the establish-  
4 ment of the fund in New York, and imposing identical powers,  
5 functions and obligations upon the fund and the state of New  
6 York as in this act, provided, however, that if the Governor of the  
7 state of New York has approved such concurrent legislation prior  
8 to the effective date of this act, then this act shall take effect  
9 immediately.

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STATE GOVERNMENT—GENERAL

Creates the "Statue of Liberty Trust Fund," a bi-state New York-  
New Jersey public corporation to provide assistance to the home-  
less from tax and fee revenue attributable to Ellis and Liberty  
Islands.

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18 in computing the net taxable income of the donor for the purposes  
 19 of any tax on or measured by income, or estate or gift tax, imposed  
 20 by the States of New Jersey or New York or any political sub-  
 21 division thereof, to the extent that such deductions are otherwise  
 22 authorized by the law imposing such income, estate, or gift tax.

1 12. This act shall take effect immediately and remain inopera-  
 2 tive until the date of approval by the Governor of the State of  
 3 New York of concurrent legislation providing for the establish-  
 4 ment of the fund in New York, and imposing identical powers,  
 5 functions and obligations upon the fund and the state of New  
 6 York as in this act, provided, however, that if the Governor of the  
 7 state of New York has approved such concurrent legislation prior  
 8 to the effective date of this act, then this act shall take effect  
 9 immediately.

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#### STATEMENT

This bill creates the "Statue of Liberty Trust Fund," a bi-state public corporation which is intended to provide assistance to homeless persons. The bill implements the "Memorandum of Understanding In Regard to Establishing a Bi-State Public Corporation to be known as the 'Statue of Liberty Trust Fund,'" which was signed by the Governors of New York and New Jersey on June 23, 1986. Under the agreement and this bill, certain tax and fee revenues of the two states which are attributable to Liberty and Ellis Islands are to be appropriated to the Trust Fund, for equal distribution to programs for homeless persons in New York and New Jersey. The bill is substantially identical to corresponding legislation which has been introduced in the New York Legislature.

The Trust Fund will have an eleven member board of directors, with each Governor appointing five members and the two Governors jointly appointing the eleventh member, who shall serve as chairman. The Fund will make grants to public or private agencies providing assistance to homeless persons, after a review of grant proposals from those agencies and in consultation with the appropriate state agencies in New York and New Jersey. The Governors of each state must approve all proposed expenditures of the Fund.

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#### STATE GOVERNMENT—GENERAL

Creates the "Statue of Liberty Trust Fund," a bi-state New York-New Jersey public corporation to provide assistance to the homeless from tax and fee revenue attributable to Ellis and Liberty Islands.

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ASSEMBLY HOUSING COMMITTEE  
STATEMENT TO  
**ASSEMBLY, No. 3259**

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**STATE OF NEW JERSEY**

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DATED: OCTOBER 23, 1986

The Assembly Housing Committee reports Assembly Bill No. 3259 favorably without amendment.

This bill would create a fund supported by annual appropriations of the states of New York and New Jersey equivalent to their respective tax and fee revenues, including those of local governments, "directly attributable to" Ellis and Liberty Islands, out of which money would be made available, under contract, to "sponsors" (governmental agencies or private nonprofit organizations) providing food, clothing, shelter and other services to homeless persons within the two states.

In order to be effective, this legislation must be enacted in substantially the same form in both states.

The "Statute of Liberty Trust Fund" is created as a body corporate and politic, with the usual powers and duties of such an entity, and is to continue in existence until terminated by concurrent legislative action of both states. Legislation terminating the fund shall provide for distribution of all its remaining assets.

The fund shall be managed by an 11-member board of directors, of whom five shall be appointed by each governor, and the chairman jointly by both governors. Terms of the directors shall be five years, except that each governor shall make two of his initial appointments for three years and three for four years, so as to stagger the expirations; and vacancies shall be filled for the remainder of an unexpired term. Directors may be removed from office in accordance with the law of the state from which appointed; but the chairman may be removed in accordance with the law of either state relating to removal of public officers serving at the pleasure of the governor. No action of the board shall be binding unless taken at a meeting where at least three members from each state are present and voting in favor thereof. Directors shall be unpaid, but entitled to reimbursement for actual and necessary expenses.

The terms of the bill oblige each state to make to the fund an annual appropriation, beginning with the fiscal year commencing in 1987 (April 1 in New York, July 1 in New Jersey), "at least equal to" an

amount to be calculated and certified by each state's tax administrator as (1) net revenue of state and local taxes (less costs of collection and administration) "attributable directly to Ellis and Liberty Islands" and (2) state and local tolls and fees for use of bridges and other land connections to the islands, including one-half of the tolls and fees collected by bistate agencies.

Subsection c. of section 8 of the bill specifies in some detail the nature of the taxes that are to be reckoned in the calculation, and the rules that apply in "attributing" revenues to the islands. The taxes are: (1) sales and use taxes, (2) personal and business income taxes, and (3) taxes on the doing of business (e.g., franchise taxes).

In general, the rule of attribution laid down is that it should use the same "factors, method or concept" as each state would use in allocating revenues for its own internal purposes, except as modification may be necessary "to account for the fact that the allocation or attribution hereunder is not to the state or locality but to an area therein." It is further laid down that any revenue derived "from an event occurring on the islands" shall be allocable to the islands.

Specific rules are also laid down for allocating to the islands the following taxes under the circumstances set forth:

a. Sales/use taxes imposed on (1) utilities or utility services when used or consumed on the islands, even if delivered off the islands; (2) the building or provision of access to or from the islands; (3) provision of transportation or sightseeing tours to, from or about the islands, irrespective of purchase thereof off the islands; (4) sales of food and beverages to passengers on such transportation or tours; (5) fuel and all other tangible personal property purchased and used for such transportation or tours. (It is provided that, when a tour or transportation service includes other sites or destinations, the taxes "shall be apportioned," although the method of apportionment is not spelled out.)

b. Sales taxes on items purchased for use or consumption on the islands by residents or in connection with a business conducted thereon.

c. Business franchise and income taxes on businesses (1) providing utility services used or consumed on the islands, (2) building or providing access to or from the islands, (3) providing tours or transportation to, from or about the islands.

d. Personal income taxes imposed by either state or its localities on: (1) residents of the islands, (2) residents of the state or locality, other than residents of the islands, with respect to income derived from employment on the islands or the provision of access, transportation or tours to, from or about the islands, (3) nonresidents of the state or locality with respect to such income.

In addition to the above funding, the bill provides for the fund to accept “grants-in-aid and gifts of real and personal property, including money, from any source whatsoever.” It also provides that gifts to the fund shall qualify as deductions with regard to income, estate or gift taxes imposed by either state or their political subdivisions. (The fund itself is exempted from any state or local taxes on its property, revenues and operations.)

The fund is authorized to enter into contracts with “sponsors” for the provision of “homeless services.” A “sponsor” may be, specifically, the New York Department of Social Services or the New Jersey Department of Community Affairs, or, in general, any other “appropriate” state or local government agency or nonprofit or charitable organization. Before entering into any such contract, the fund is required to determine a prospective sponsor’s ability and responsibility, and to ascertain, with the assistance of appropriate agencies of either state, that the proposed program is appropriate to the needs of the community it purports to serve. A sponsor under contract to the fund may also be authorized by the fund to enter into subcontracts with other local government agencies or nonprofit organizations.

The “homeless services” to be provided through assistance to sponsors are defined in the bill as “including, but not limited to,” (1) the provision of “food, clothing, furnishings or equipment” to homeless persons; (2) “construction and operation of housing for homeless persons,” and (3) “research relative to homeless persons.” (The definition contains specific reference to New Jersey’s “Prevention of Homelessness Act (1984),” P. L. 1984, c. 180 (C. 52:27D-280 et al.), which authorizes the Department of Community Affairs to provide emergency temporary assistance to persons threatened with eviction or foreclosure due to nonpayment of rent, mortgage or taxes through reasons beyond their control; and to P. L. 1985, c. 48 (C. 55:13C-1 et seq.), providing for the Department of Community Affairs to establish standards for the licensing of emergency shelters for homeless.)

A prospective sponsor must submit an “operating plan,” detailing what services are to be provided, by whom, in what manner, and with what resources; and demonstrating its compliance with existing local, state and federal laws and regulations.

A contract for the creation or operation of housing for homeless persons must also provide that, if the property involved ceases to be used as housing for the homeless within seven years (or any longer period specified in the contract), the fund may cancel the contract and require repayment of moneys previously advanced.



The fund may enter into such contracts only in accordance with an annual expenditure plan, which the board of directors is required to adopt and submit to each governor. The plan, which shall identify those projects for which the fund intends to provide assistance, shall not become effective unless approved by both governors, who have 30 days to consider it; if not rejected in writing by either governor within that period (or such additional time as requested), it is deemed approved.

The bill requires that the resources of the fund be apportioned equally between sponsors located in New Jersey and sponsors located in New York.

The accounts of the fund are to be examined, not less than once every two years, by the Comptroller of the State of New York and the Treasurer of the State of New Jersey, either jointly or individually.

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ASSEMBLY APPROPRIATIONS COMMITTEE  
STATEMENT TO  
**ASSEMBLY, No. 3259**  

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**STATE OF NEW JERSEY**  

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DATED: OCTOBER 23, 1986

The Assembly Appropriations Committee favorably reports Assembly Bill No. 3259.

Assembly Bill No. 3259 creates the "Statue of Liberty Trust Fund" which is a bistate public corporation intended to provide assistance to homeless persons. The bill implements the agreement signed by the Governors of New York and New Jersey on June 23, 1986. Under the agreement and this bill, certain tax and fee revenues of the two states attributable to Liberty and Ellis Islands are to be appropriated to the Trust Fund, for equal distribution to programs for homeless persons in New York and New Jersey.

The Trust Fund would have an eleven member board of directors, with each Governor appointing five members and the two Governors jointly appointing the eleventh member, who shall serve as chairman. The fund will make grants to public or private agencies providing assistance to homeless persons, after a review of grant proposals from those agencies and in consultation with the appropriate state agencies in New York and New Jersey. The Governors of each state must approve all proposed expenditures of the fund.

The bill is substantively identical to corresponding legislation which has been introduced in the New York Legislature.

**FISCAL IMPACT:**

There is to be an annual appropriation by each state after each state's tax administrator certifies an amount estimated to the revenues and fees attributable directly to Ellis and Liberty Islands. This certification is to be made at least one month before the next fiscal year. The funds will then be equally distributed to programs for homeless persons in New York and New Jersey.

SENATE STATE GOVERNMENT AND FEDERAL AND  
INTERSTATE RELATIONS AND VETERANS AFFAIRS  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3259**

with Senate committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 8, 1986

The Senate State Government Committee reports favorably and with committee amendments Assembly Bill No. 3259.

This bill creates a bistate public corporation of New York and New Jersey whose purpose shall be to provide housing assistance to homeless persons. The corporation is entitled the "Statue of Liberty Trust Fund." It shall receive and administer appropriations from New York and New Jersey and shall have numerous powers, including, but not limited to, the power to acquire real or personal property, furnish services, hire officers, agents and employees, and retain legal, financial and consulting services.

The fund shall be managed by an 11-member board of directors, five of whom shall be appointed by the Governor of New York and five of whom shall be appointed by the Governor of New Jersey. The 11th member shall be the chairman of the board and shall be appointed jointly by the Governors of New York and New Jersey.

The fund is authorized to enter into contracts with "sponsors" (for example, in New Jersey the Department of Community Affairs is one of the designated sponsors) to provide assistance to the homeless pursuant to an expenditure plan adopted by its board of directors. The fund may authorize sponsors in turn to enter into subcontracts with counties, municipalities, other political subdivisions, nonprofit corporations, and charitable organizations. The plan shall be submitted to the respective Governors for their approval. If either Governor fails to approve or reject the plan within 30 days of receipt without requesting an extension, the inaction shall be viewed as approval of the plan.

The bill provides that the resources administered by the fund shall be apportioned equally between sponsors located within New York and New Jersey.

The bill mandates each state to annually appropriate to the fund an amount equal to state and local tax revenues and fees directly attributable to Ellis and Liberty Islands and an amount equal to tolls and fees

collected by either state or its localities, plus one-half the amount of the tolls and fees collected by joint agencies of the two states, for the use of bridges, roads on other land connections providing access to or from Ellis and Liberty Islands. The bill deems "attributable" to the islands various taxes and fees on services occurring off either island. For example, taxes on utility service to either island are deemed attributable even though the service occurs off the island; various state and local sales taxes on personal property used on either island are deemed attributable; certain state and local franchise taxes are deemed attributable; taxes on income derived from employment in connection with either island are deemed attributable.

The bill provides that the fund shall not expend more than 5% of the annual appropriation made by the states for the administration of the fund without prior written approval from both Governors.

The committee amended the bill to provide for advice and consent by the Senate of New Jersey directors and to make technical corrections.

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# OFFICE OF THE GOVERNOR

## NEWS RELEASE

**CN-001**

**Contact:** CARL GOLDEN  
609-292-8956 OR 292-6000 EXT. 207

**TRENTON, N.J. 08625**

**Release:** WED., MAR. 4, 1987

Governor Thomas H. Kean today signed legislation creating a Statute of Liberty Trust Fund to utilize tax revenue generated by commercial activities on Liberty and Ellis islands for assistance to homeless persons in New Jersey and New York.

The legislation, A-3259, was sponsored by Assemblyman Jose Arango, R-Hudson, and embodies the recommendations contained in a memorandum of understanding signed by Governor Kean and New York Governor Mario Cuomo last June.

The legislation creates a Statute of Liberty Trust Fund to be managed by an 11-member board of directors, with Governors Kean and Cuomo appointing five members each and a chairperson to be appointed jointly by the two governors.

The legislation cannot take effect until identical legislation is approved by the New York Legislature and signed by the Governor.

"When Governor Cuomo and I announced our agreement last year, we made the point that the Statute of Liberty had stood for one hundred years as a beacon to homeless persons seeking to make their way in this country," Kean said. "It is altogether fitting and appropriate that revenues generated by activities on Liberty and Ellis islands be put to use to help the homeless in our midst.

- more -

Bill Signing - A-3259, Statute of Liberty Trust Fund  
Page 2  
March 4, 1987

It is estimated that the fund will raise approximately \$1 million per year.

The money will be used for programs to aid the homeless in the two states, including providing food, shelter, and clothing.

Under the legislation, the money can be allocated directly by the fund or through sponsors, non-profit organization and charitable groups.

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IN REGARD TO ESTABLISHING A BI-STATE PUBLIC CORPORATION  
TO BE KNOWN AS THE STATUE OF LIBERTY TRUST FUND

ARTICLE I

Liberty and Ellis Islands are national treasures symbolizing our nation as a land of hope for people yearning for freedom, justice, equality of opportunity and a better life.

The Statue of Liberty was the first sight of thousands of immigrants to the United States. The view of the Statue standing in the harbor symbolized the start of a new life with greater opportunities and challenges in this country. Ellis Island was the soil on which these immigrants first stepped in their new world.

There is now pending a lawsuit that seeks to determine the respective sovereignty and jurisdiction of the States of New Jersey and New York over Liberty and Ellis Islands. In view of the special subject matter involved, it is fitting that such conflicts be avoided by dedicating the economic benefits of sovereignty and jurisdiction over the Islands to a regional purpose related to the symbolic meaning of the Statue of Liberty and Ellis Island. However, since these Islands have long been under effective federal title, they can truly be said to belong to all of the people of the United States.

Today, the homeless population of the States of New York and New Jersey is a reminder that there are still many in this region for whom hopes of a better life remain unfulfilled. It is appropriate, in this centennial year of the Statue of Liberty, that Ellis and Liberty Islands, the nation's monuments to the vast numbers of people who came from other countries seeking a better life, be rededicated to the assistance of our homeless population.

Homelessness is a regional problem that demands regional solutions. Because of the ease of access to interstate transportation and the very nature of their transient existence, the homeless now travel back and forth across state borders quickly and easily. It is therefore appropriate that the States of New Jersey and New York work cooperatively to develop and promote programs to assist homeless men, women and children in both states in obtaining decent and affordable shelter.

ARTICLE II

The Governors of the States of New York and New Jersey hereby agree to use their best efforts to secure enactment of identical legislation in their respective states which shall establish a bi-state public corporation to be known as the "Statue of Liberty Trust Fund" (hereinafter "the Fund").

The Fund shall be managed by an eleven member board of directors, five to be appointed by the Governor of the State of New York and five to be appointed by the Governor of the State of New Jersey, and one director, who shall be designated the chairperson of the board, to be appointed by the Governors jointly. All board members shall serve without compensation, but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties. The term of office of each member shall be five years and each member shall hold office until his successor shall have been appointed.

No action of the board of directors of the Fund shall be binding unless taken at a meeting at which at least three of the members from each state are present and vote in favor thereof. The board of directors of the Fund shall annually submit a plan for the expenditure of the resources of the Fund which shall only become effective upon the approval of both Governors.

ARTICLE III

The purpose of the Fund shall be to provide aid to homeless persons within the States of New Jersey and New York. The Fund shall accomplish this objective primarily by entering into contracts with or making grants to local social services districts or to other public or private entities

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in each state which aid homeless persons, pursuant to such criteria as each state shall provide. For the purposes of this agreement, "homeless persons" shall mean undomiciled persons who are unable to secure adequate permanent and stable housing in the States of New York and New Jersey without special assistance. The parties shall coordinate with social service organizations of both states to ensure that resources are provided to the most cost-effective programs for the homeless and are used to address the most pressing needs in this regard. Resources of the Fund shall be provided to appropriate agencies and other organizations from each state on an equal basis.

#### ARTICLE IV

The Governors of New York and New Jersey agree that it is appropriate that the States of New York and New Jersey each appropriate annually to the Fund upon its establishment, through the states' respective budgets, the amounts described in this article to effectuate the intent of this agreement.

Such annual appropriation by each state shall be in an amount equal to the amount, as determined in the manner hereafter described, set forth in the certificate of its tax administrator as the total of a) all state and local tax revenues collected by that state and its localities, after deducting administrative costs, from the taxes hereafter set forth during the prior calendar year which are attributable directly to Ellis and Liberty Islands and b) the amount collected by that state and its localities, and one-half of the amount collected by joint agencies thereof, from the fees hereafter described during the same period. Such state and local taxes which shall be taken into account for the purpose of such annual appropriation are the following taxes presently or hereafter imposed by the respective states and their localities: franchise, or business privilege or like taxes on the doing of business; taxes imposed on the earnings or income of business entities (including corporations) or individuals; and sales and compensating use taxes. The fees which shall be taken into account for the purpose of such appropriation are those fees now or hereafter collected by either state or its localities, and one-half of the amount collected by joint agencies thereof, for the provision of public access to or from Ellis or Liberty Islands. The tax administrator of each state shall, for the purpose of fixing the required amount of the annual appropriation to the Fund, certify to the legislature of his state and the Fund a) his estimate of the amount, less costs of administration, of the state and local revenues collected during the prior calendar year from the aforesaid taxes which are attributable directly to the Islands, and b) the appropriate amount of such fees collected during such period, and the appropriation to be made by each state shall be equal to the total set forth in such certification of its tax administrator. The two states shall prescribe uniform procedures and methods to be employed by the tax administrators in making the estimation of such state and local tax revenues required to be included in such certification and such other uniform procedures as may be necessary to effectuate the terms of this agreement.

For the purpose of determining revenue attribution of the above enumerated state and local taxes to Ellis or Liberty Islands the following shall apply:

1. Traditional revenue attribution. For the purposes of determining revenue attribution, if any, of any particular such state or local tax to Ellis or Liberty Island, the same method or concept with respect to allocation or attribution which is used for the purpose of determining allocation to the state or locality with respect to that particular tax as administered by the state (or locality) imposing such tax shall be applied in making the determination with respect to the Islands. In the case of sales and compensating use taxes, if the tax is occasioned by an event occurring on the Islands, the tax revenues derived therefrom shall be allocable to the Islands.

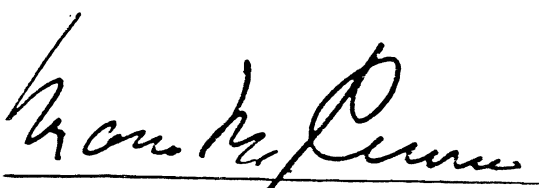
2. Other Revenue Attribution. In addition to the foregoing attribution of such state and local taxes by the method set forth in paragraph 1 above, to the extent not already included under such paragraph, the revenues collected from the following such taxes, to the extent presently or hereafter imposed by the states and their localities, shall, for the purposes of this article, be attributable directly to the Islands:

- a) State and local sales and compensating use taxes imposed with respect to (1) the provision of water, sewerage, gas, electricity, telephone or like utilities or utility services where such utilities or utility services are used or consumed on

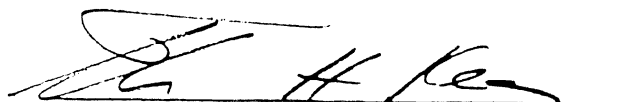


delivery of such utilities or utility service occurs off the Islands, (2) the building of or the provision of access to or from Ellis or Liberty Islands, (3) the provision of sightseeing tours to, of or around Ellis and/or Liberty Islands or transportation to or from the Islands, irrespective of whether such tour or transportation was purchased on the Islands, (4) sales of food and beverage and other tangible personal property by providers of such sightseeing tours to their patrons or by the providers of such transportation to their passengers, (5) fuel and all other tangible personal property purchased by providers of such tours or transportation and used directly in connection with the provision of such tours or transportation. Where such sightseeing tour or transportation includes other sites or destinations, such taxes shall be apportioned;

- b) State and local sales tax imposed by either state or its localities with respect to the purchase of tangible personal property, services or other items which are used or consumed on Ellis or Liberty Islands by persons residing thereon or in connection with a trade or business conducted thereon if with respect to such use or consumption there is due and owing state and local compensating use tax;
- c) State and local franchise, or business privilege or like taxes on the doing of business or taxes imposed on the earnings or income of business entities (including corporations), in the case of business activities conducted in either state which consists of (1) providing water, sewerage, gas, electricity, telephone or like utilities or utility services where such utilities or such utility services are used or consumed on Ellis or Liberty Islands, (2) the building of or the provision of access to or from Ellis or Liberty Islands, (3) conducting tours to, of or around Ellis and/or Liberty Islands or providing transportation to or from the Islands. The portion of such state and local taxes derived from such business activities shall be attributable directly to Ellis and Liberty Islands;
- d) (1) Personal income taxes imposed by the states and their localities on other than persons residing on Ellis and Liberty Islands (i) personal income taxes imposed by the State of New York and its localities with respect to residents of the State of New York and its localities and (ii) personal income taxes imposed by the State of New Jersey and its localities with respect to residents of the State of New Jersey and its localities, in the case of income or wages from employment or earnings from self-employment of such residents derived from employment or self-employment (A) on Ellis or Liberty Islands, and (B) with respect to the building of or the provision of access to or from such Islands or the conducting of tours to, of or around Ellis and/or Liberty Islands or the provision of transportation to or from such Islands, the portion of such state and local taxes derived from such income or wages or earnings shall be attributable directly to Ellis and Liberty Islands and (2) nonresident personal income and earnings taxes imposed by either state and its localities with respect to persons residing on Ellis and Liberty Islands, in the case of such persons paying such taxes to either state and its localities, the taxes so paid by such persons shall be attributable directly to Ellis and Liberty Islands.



Mario M. Cuomo  
Governor  
State of New York



Thomas H. Kean  
Governor  
State of New Jersey

te: June 23, 1986

Date: June 23 1986