

LEGISLATIVE FISCAL ESTIMATE TO

ASSEMBLY, No. 1485

STATE OF NEW JERSEY

DATED: April 1, 1996

Assembly Bill No.1485 of 1996 provides that a hotel in an eligible municipality must separately state the tourism promotion fees to guests and that such fees are not includible in the taxable room rent for New Jersey sales and use tax and Atlantic City luxury tax purposes. The bill is retroactive to March 1, 1992, the first day of the first full month in which hotel rentals were subject to the tourism promotion fees, and applies to all taxes that are uncollected since that date.

The tourism promotion fees enabled pursuant to P.L.1991, c.376 (C.40:48-8.45 et seq), are \$2 per day for each occupied room in a casino gaming hotel in Atlantic City and \$1 per day for each occupied room in other hotels in Atlantic City. The fees are imposed on the hotel owner and may be passed on to the customer; however, if the fees are passed on to the customer, the increase in hotel room rate becomes part of the taxable receipt on which New Jersey sales tax and Atlantic City luxury tax are imposed. The bill, which allows the fees to be excluded from taxable room rent, prevents tax "pyramiding," the imposition of the combined sales taxes on the fee.

Based on casino hotel room occupancies in Atlantic City reported in the Casino Chronicle and other hotel and motel occupancy statistics for Atlantic County reported in Department of Commerce tourism spending surveys, it is estimated that there have been approximately 3 million casino hotel room occupancies and 0.5 million non-casino hotel room occupancies in Atlantic City annually since 1993. The sales tax rate on hotel rooms subject to luxury tax was 4 percent from March 1, 1992 to June 30, 1992, and 3 percent thereafter; the Atlantic City luxury tax rate has been 9 percent for the entire relevant period. Imposition of the sales taxes on the tourism promotion fees would be expected to generate roughly \$200,000 in New Jersey sales taxes and \$600,000 in Atlantic City luxury taxes annually.

The Legislative history of P.L.1991, c.376, does not indicate that any sales tax revenues were intended to be obtained from this source; no such revenues have been included in revenue estimates or in State budgets or appropriations acts. The annual appropriations act for State fiscal year 1996 contains language explicitly forbidding the enforcement of New Jersey sales tax and Atlantic City luxury tax on the tourism promotion fees, and Department of Treasury information indicates that the sales taxes have never been enforced on the tourism promotion fees; therefore the bill, although retroactive, would not require that any refund be made of taxes already collected. Enactment

of this bill would, therefore, have no expected effect on estimates of closing surplus, revenue or expenditure for State fiscal years 1996 or 1997.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

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