

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5943

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5943, with committee amendments.

As amended, this bill, temporarily modifies the taxes and credits of casino licensees, permanently redefines promotional gaming credits to include certain coupons and table game wagers, and requires priority funding for senior and disabled transportation services.

Under the bill, Division of Gaming Enforcement would calculate the adjusted taxable revenue for each casino licensee for the 12-month period beginning January 1, 2021 and ending December 31, 2021. The adjusted taxable revenue would be determined by subtracting the amount of promotional gaming credits eligible for a deduction pursuant to current law from the actual gross revenue of each casino licensee over that 12-month period. The division would then apply the tax rates set forth in the bill to the adjusted taxable revenue of each casino licensee, and the division would also apply an 8 percent tax rate to the taxable gross revenue of each casino licensee. Under the bill, each casino licensee would be allowed a credit against the tax imposed under current law for the 12-month period following the effective date of the bill in an amount representing the difference between the amount calculated by applying an 8 percent tax rate to the adjusted taxable gross revenue of each casino licensee and the amount calculated by applying the tax rates set forth in the bill to the adjusted taxable revenue of each casino licensee. Under the bill, this credit would be allowed in monthly installments in one-twelfth increments.

Under the bill, the Division of Gaming Enforcement would calculate the casino win of each casino licensee for the four-month period beginning January 1, 2021 and ending April 30, 2021 as a percentage of the casino win of each casino gaming property for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019. For the purposes of the calculation performed under the bill, the rate applicable to a casino licensee would be as follows:

(1) for each casino licensee for which casino win for the four-month period beginning January 1, 2021 and ending April 30, 2021 are at least 50 percent and less than 75 percent of the casino win for the

four-month period comprised of January 2020, February 2020, March 2019, and April 2019, the tax rate used for the calculation performed under the bill would be 6.8 percent; and

(2) for each casino licensee for which casino win for the four-month period beginning January 1, 2021 and ending April 30, 2021 are at least 75 percent and less than 100 percent of the casino win for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019, the tax rate used for the calculation performed under the bill would be 7.4 percent.

Under the bill, a casino licensee for which casino win for the four-month period beginning January 1, 2021 and ending April 30, 2021 are 100 percent or more of the casino win for the four-month period comprised of January 2020, February 2020, March 2019, and April 2019 would be allowed a credit against the tax imposed under current law for the 12-month period following the effective date of the bill in an amount that is 90 percent of the lowest credit dollar amount allowed to a casino pursuant to the calculation performed under subsection a. of this section. This credit would be allowed in monthly installments in one-twelfth increments.

The bill also requires that each casino licensee allowed a credit under the bill submit a report to the State Treasurer and the Division of Gaming Enforcement, at the same time that the credit is claimed, that documents that an amount equal to the entire dollar amount allowed as a credit under this bill is being expended by the licensee to: (1) promptly re-hire and employ former employees and new applicants; (2) attract tourists, gaming, and hospitality patrons to visit and stay at the casino hotel property; (3) market and promote events that would draw visitors to the property or Atlantic City, such as entertainment and conventions; and (4) any other activity the State Treasurer or the division deem beneficial to the return of pre-emergency economic, gaming, and tourism levels to Atlantic City.

Under the bill, each casino licensee is permitted to take a deduction against gross revenues equal to the full amount of promotional gaming credits, including match play and table game coupons that are issued by the licensee and redeemed its patrons. Currently, casinos are permitted to take such deductions only for the amount of promotional gaming credits redeemed in a tax year that exceed \$90,000,000. Under the bill, a casino licensee would be entitled during the 24-month period commencing on the first day of the calendar month following the effective date of the bill and ending on the last day of the 24th month thereafter to receive a monthly deduction from the gross revenue taxed.

Under the bill, a casino operator is prohibited from using any funds or savings resulting from enactment of the bill to repurchase stock or stock options, issue a dividend, or provide for bonuses for any officer or executive employee.

The bill also provides that during State Fiscal Years 2022, 2023, and 2024, the monies appropriated to the New Jersey Transit Corporation for the Senior Citizen and Disabled Resident Transportation Assistance Program should be given priority to ensure that the corporation receives an amount equal to 8.5 percent of the sum of revenues deposited in the Casino Revenue Fund during the preceding fiscal year, plus any reductions in revenues during the preceding year that directly resulted from the temporary credits or deductions allowable under the bill.

COMMITTEE AMENDMENTS:

The committee amendments provide that the temporary credits for casino licensees would be calculated based on a licensee's adjusted taxable revenue for the period between January 1, 2021 and December 31, 2021, which adjusted revenues would be determined by the licensee's actual taxable revenues, less a deduction for promotional gaming credits. As introduced, these credits would have been calculated based on the licensee's projected taxable revenue during this period. Because the 12-month period may elapse before the enactment of the bill, this amendment is intended to be technical in nature.

The committee amendments also revise the requirements of the bill concerning the appropriation of monies for the Senior Citizen and Disabled Resident Transportation Assistance Program. Specifically, the amendments:

(1) provide that the funding requirements set forth in the bill would apply to State Fiscal Years 2022, 2023, and 2024. As introduced, these requirements would have applied to State Fiscal Years 2021 and 2022;

(2) require the appropriations for the program to equal 8.5 percent of the sum of revenues deposited in the Casino Revenue Fund during the preceding fiscal year, plus any reductions in revenues during the preceding year that directly resulted from the temporary credits or deductions allowable under the bill. As introduced, the these appropriations would have equaled 8.5 percent of the amounts deposited into the Casino Revenue Fund during State Fiscal Year 2019; and

(3) clarify that these monies may be appropriated from the Property Tax Relief Fund, as well as the Casino Revenue Fund. Under the Annual Appropriations Act, the monies appropriated for this program are generally provided from the Property Tax Relief Fund, notwithstanding that current law requires these monies to be provided from the Casino Revenue Fund.

The committee amendments also make technical changes to the bill, including correcting typographical errors.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill will reduce revenues over an initial 12-month period by at least \$27.2 million and an additional \$7.2 million over the subsequent 12-month period. Of the \$34.4 million in quantifiable revenue loss, \$20 million is derived from the bill's tax credits for casino licensees, which would be awarded over a 12-month period. The remaining \$14.4 million revenue loss comes from a more generous promotional gaming credit deduction, which would be in effect for a 24-month period.

The bill also permanently modifies the definition of promotional gaming credit to allow casino licensees to deduct match play coupons and table game wager coupons, which will result in a recurring indeterminate revenue loss to the Casino Revenue Fund. The OLS notes that allowing these coupons to be deductible could prompt casino licensees to increase the amounts being awarded, which in turn could alter the revenue and expenditure impacts associated with that provision of the bill.

For purposes of calculating the appropriation to the New Jersey Transit Corporation for the Senior Citizen and Disabled Resident Transportation Assistance Program in Fiscal Years 2022, 2023, and 2024, the bill adds back the revenue losses associated with the bill's tax credits and promotional gaming credit deduction to ensure the appropriation will not be significantly altered as a result of the bill's enactment.

Given that the change to the definition of promotional gaming credit is permanent, the amount appropriated for the Senior Citizen and Disabled Resident Transportation Assistance Program will be lower for each fiscal year thereafter the bill's enactment. The OLS does not have data on the total amount of match play and table game coupons currently being wagered to determine this impact.