

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**SENATE, No. 2400**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: SEPTEMBER 21, 2020

### **SUMMARY**

- Synopsis:** Provides temporary modifications to payment and use of certain casino gaming taxes and fees; allows deduction of promotional gaming credits and certain coupons from gross revenues; appropriates \$100 million of federal funds to EDA for small business assistance; requires priority funding for senior and disabled transportation services from Casino Revenue Fund.
- Type of Impact:** Temporary and annual decreases in State revenues; shift in State revenues collections into future fiscal years
- Agencies Affected:** Casino Control Commission;  
Casino Reinvestment Development Authority;  
Department of Law and Public Safety; and  
Department of the Treasury.

### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2020* and Thereafter</u></b>
<b>State Revenue Loss</b>	Indeterminate
<b>State Revenue Shift</b>	Indeterminate

\*FY 2020 beginning on July 1, 2019 and ending on September 30, 2020.

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate decreases in State revenues, some temporary in nature and some permanent, and a shift in the timing of when certain revenues are received into future fiscal years. The OLS cannot quantify all aspects of the bill due to uncertainties surrounding when casino licensees will satisfy certain requirements set forth in the bill and when the Governor’s Executive Order No. 103 of 2020, which declared a Public Health Emergency and State of Emergency related to the COVID-19 pandemic, will conclude.
- Revenues will be diminished by a considerable amount because of the bill’s provisions that provide a temporary alternative calculation for casino licensees’ tax liabilities and a permanent enhanced deduction for promotional gaming credits and coupons.

- For the fees that are permitted to be deferred under the bill, each casino licensee would have to pay back the deferred amounts over a 12-month period. Thus, the bill will shift, at least in part, revenue that would have been generated from casino licenses and fees in FY 2020 to FY 2021 and potentially FY 2022 depending on the length of time that Executive Order No. 103 remains in effect.
- The \$100 million in federal funding appropriated by the bill does not have a direct fiscal impact on the State's finances.

## **BILL DESCRIPTION**

This bill provides for temporary modifications to the payment and use of certain casino gaming taxes and fees due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020. This bill also amends current law concerning the use of promotional gaming credits by casino licensees and their deduction from gross revenues.

The bill allows for certain licensing and other fees imposed on casino licensees, that are deposited to the Casino Control Fund (CCF), to be deferred during the period the licensee's casino hotel facility remains closed due to the emergencies, and during the six-month period immediately following the date that the casinos are permitted to reopen after the emergency declarations. The annual license fee on each slot machine would be entirely waived from July 1, 2020 through June 30, 2021, inclusive. The deferment or waiver would not apply to any fees imposed on a casino licensee or its Internet gaming affiliate for the issuance or renewal of any Internet gaming license or permit, or to any amounts required to be deposited in the CCF from Internet wagering inactive or dormant accounts.

The bill requires any surplus funds held by the Division of Gaming Enforcement in the CCF, or held by the division due to an overpayment of the investment alternative tax in the case of a downward adjustment of the casino licensee's audited gross revenues, to be returned to the casino licensee within a specified time period.

The bill waives certain hotel room fees related to casino gaming for the remainder of CY 2020. The fee of \$3 per day on each hotel room in a casino hotel facility that is occupied by a guest is waived for the remainder of CY 2020.

This bill provides for a reduced tax liability on casino gross revenue tax and investment alternative tax obligations for brick-and-mortar casino properties reopening following their closure due to the COVID-19 emergency declarations. The reduced tax liability would be in effect during the 12-month period commencing on the date that the casinos are permitted to reopen after the declarations and ending on the last day of the 12th month thereafter. To remain eligible to receive the tax liability reductions, the bill requires each casino licensee to submit certain information to the State Treasurer and the Division of Gaming Enforcement, at the same time that the reduced tax payments are made.

This bill amends current law to permit each casino licensee 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 million. This bill also removes the division's ability to limit the negative fiscal impact of the promotional gaming credit deduction on the Casino Revenue Fund (CRF).

This bill directs the Casino Reinvestment Development Authority (CRDA) to commit any available funds in its general fund to undertaking a marketing campaign to assist in returning

Atlantic City's tourism and gaming activities to their levels prior to the emergencies, which would begin immediately upon the bill's effective date and continue through June 30, 2021.

This bill does not impact any casino licensee's tax liabilities on gross revenues realized from casino simulcasting, internet gaming, or sports wagering.

The bill makes a separate \$100 million appropriation to the New Jersey Economic Development Authority from a portion of those federal block grant funds allocated to the State from the federal "Coronavirus Relief Fund," established pursuant to the federal CARES Act, for use by the authority to provide financial support, such as loans or grants, to small businesses generally for the costs associated with business operation interruptions caused by any State-required closures due to the impacts of the COVID-19 pandemic.

The bill requires that for FY 2021, appropriations to the New Jersey Transit Corporation from the revenues deposited in the CRF shall be given priority to ensure that the corporation receives an amount equal to 8.5% of the revenues deposited in the fund during the State Fiscal Year 2019, as determined by the State Treasurer, to provide senior citizen and disabled resident transportation assistance.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in indeterminate decreases in State revenues, some temporary in nature and some permanent, and a shift in the timing of when certain revenues are received into future fiscal years. The OLS cannot quantify all aspects of the bill due to uncertainties surrounding when casino licensees will satisfy certain requirements set forth in the bill and when the Governor's Executive Order No. 103 of 2020, which declared a Public Health Emergency and State of Emergency related to the COVID-19 pandemic, will conclude. For the parts of the bill that the OLS can quantify, mostly related to hotel fees, the OLS estimates that revenues could decline by as much as \$3.2 million through FY 2022. Revenues will be further diminished by a considerable amount because of the bill's provisions that provide a temporary alternative calculation for casino licensees' tax liabilities and a permanent enhanced deduction for promotional gaming credits. The \$100 million in federal funding appropriated by the bill does not have a direct fiscal impact on the State's finances.

Based on the State's Comprehensive Annual Financial Report for FY 2019, the CCF had total revenues of \$49.1 million from licenses and fees. With a few exceptions, the bill defers the payment of licensing and other fees that impact the CRDA, CCF, and CRF. This deferment is set to last for the duration of Executive Order No. 103 and for six months following the conclusion of the state of emergency. The OLS cannot predict when the state of emergency will conclude and how long this deferment will last. However, for most fees, each casino licensee would have to pay back the deferred amounts over a 12-month period. Thus, the bill will shift, at least in part, revenue that would have been generated from casino licenses and fees in FY 2020 to FY 2021 and potentially FY 2022 pending on the length of time that Executive Order No. 103 remains in effect.

The bill waives the \$500 fee paid by casinos annually for each slot machine from July 1, 2020 through June 30, 2021. According to the FY 2021 Governor's Budget Message, roughly 18,000 slot machine licenses were anticipated to be issued during FY 2021. With a cost of \$500 per

license, at least \$9.0 million in revenues from slot machine licenses, which are deposited into the CCF, will be foregone because of the bill's waiver.

The bill also waives certain hotel fees. According to the CY 2019 *New Jersey Division of Gaming Enforcement's Summary of Gaming and Atlantic City Taxes and Fees* report<sup>1</sup>, the \$3.00 fee for each occupied hotel room night generated about \$12.7 million. The bill waives the hotel fee for the remainder of CY 2020. If this fee was waived for up to three months, the total amount of foregone revenue from those fees would be roughly \$3.2 million.

The OLS notes that the fees waived by the bill are likely used, at least in part, to satisfy debt service and operational costs. The CRDA may have to utilize other sources of funding for debt service and operations that are traditionally covered by those fees.

The bill prescribes a new formula for the calculation of a casino's eight percent tax liability on gross revenues and the investment alternative tax following reopening. Given that the calculation of each casino's tax liability will be different under this new formula and based on certain unique metrics, the OLS cannot quantify the magnitude by which gross revenue tax collections and investment alternative tax collections will decrease as a result of the bill. The reduction in tax liability could last for as long as 12 months.

The bill also modifies and enhances a deduction provided to casino licensees against their gross revenues for certain promotional perks redeemed by patrons. The current deduction is based on the total value of promotional gaming credits redeemed by a casino's patrons in excess of \$90 million. The bill removes the \$90 million threshold, which allows casino licensees to deduct all promotional gaming credits and not just the amount in excess of the threshold. In addition to promotional gaming credits, casino licensees will also deduct match play coupons and table game wager coupons as a result of the bill. The enhanced deduction is a permanent change and will reduce a casino licensee's tax liability, which in turn reduces the amount of revenue the State receives into the CRF for all future fiscal years.

This bill directs the CRDA to commit any available funds in its General Fund to undertaking a marketing campaign to assist in returning Atlantic City's tourism and gaming activities to their levels prior to the states of emergency, which would begin immediately upon the bill's effective date and continue through June 30, 2021. The bill may cause a shift forward in State spending on these initiatives, but the OLS has no way of knowing how or when the CRDA will implement these requirements of the bill.

*Section:* Revenue, Finance and Appropriations  
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Legislative Budget and Finance Officer

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 (C.52:13B-6 et seq.).

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<sup>1</sup> <https://www.state.nj.us/lps/ge/docs/Financials/QuarterlyFinRpt2019/ACSpecificTaxesandFees1978-2019.pdf>