

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 2400

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: SEPTEMBER 29, 2020

SUMMARY

- Synopsis:** Provides temporary modifications to payment and use of certain casino gaming taxes and fees; permanently redefines promotional gaming credits to include certain coupons and table game wagers; requires priority funding for senior and disabled transportation services.
- 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

Fiscal Impact	<u>FY 2021 and Thereafter</u>
State Revenue Loss	Indeterminate
State Revenue Shift	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in indeterminate decreases in State revenues, most temporary in nature, 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.

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 reimbursed from July 1, 2020 through October 30, 2020, 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.

This bill provides for a reduced tax liability on casino gross revenue tax 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 redefine promotional gaming credits to include match play and table game coupons that are issued by the licensee and redeemed its patrons. This bill temporarily allows casino licensees, during the 12-month period commencing on the date that the casinos are permitted to reopen and ending on the last day of the 12th month thereafter, to receive a monthly deduction from the gross revenues taxed in an amount equal to the full amount of promotional gaming credits, including match play coupons and table game wager coupons, reported each month by that licensee. 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. The \$90,000,000 threshold would not apply during the 12-month period.

The bill prohibits a casino operator from using funds or savings resulting from this bill to repurchase stock or stock options, or to provide for bonuses for any officer or employee. 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 requires that for State Fiscal Year 2021, appropriations to the New Jersey Transit Corporation from the revenues deposited in the Casino Revenue Fund 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 effectuate the purposes and provisions of P.L.1983, c.578 (C.27:25-25 et seq.).

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.

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 or reimburses 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 could shift, at least in part, revenue that would have been generated from casino licenses and fees in FY 2021 to FY 2022 depending on the length of time Executive Order No. 103 remains in effect.

The bill reimburses casinos for the cost of the annual slot machine license fee from July 1, 2020 through October 30, 2020. The OLS notes that this will reduce State revenues by an indeterminate amount.

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 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 will decrease as a result of the bill. The reduction in tax liability could last for as long as 24 months, so the impact could spill over into FY 2022.

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 for the 12-month period commencing on the date casinos were permitted to reopen after Executive Order No. 103, 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 be allowed to deduct match play coupons and table game wager coupons as a result of the bill. The enhanced deduction is a temporary 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 potentially two fiscal years.

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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.).