

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2165

STATE OF NEW JERSEY

222nd LEGISLATURE

DATED: MAY 29, 2026

SUMMARY

Synopsis: “Saving Our Diners and Preserving Our Past (SODA POP) Act”; provides sales and use tax exemption and corporation and gross income tax credits for historic diners and historic restaurants included in online registry.

Type of Impact: Annual State revenue loss to the General Fund and Property Tax Relief Fund. Increase in State costs.

Agencies Affected: Department of the Treasury.
Department of State.

Office of Legislative Services Estimate

Fiscal Impact	FY 2027	FY 2028	FY 2029
State Revenue Loss	\$20.6 million to \$22.4 million	\$52.6 million to \$57.3 million	\$55.2 million to \$60.1 million
State Expenditure Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill will result in State revenue losses to the General Fund and Property Tax Relief Fund, and an increase in State costs, beginning in FY 2027.
- The OLS estimates that 600 to 640 diners and restaurants will qualify for the tax incentives authorized by the bill. The OLS estimates that the sales and use tax exemption under the bill would result in annual State revenue losses of \$20.6 million to \$22.4 million in FY 2027, \$41.2 million to \$44.8 million in FY 2028, and \$43.2 million to \$47.1 million in FY 2029.
- The provision of tax credits to historic diners and restaurants is expected to reduce State revenues by \$11.4 million to \$12.4 million in FY 2028 and \$12.0 million to \$13.1 million in FY 2029. The OLS anticipates that eligible taxpayers will first claim the tax credits on their tax year 2027 returns, which are to be filed in calendar year 2028, or FY 2028.
- The OLS notes that the State would incur indeterminate additional administrative costs associated with the establishment of the historic diner and restaurant registry.



BILL DESCRIPTION

The bill, designated as the Saving Our Diners and Protection Our Past (SODA POP) Act, provides certain tax benefits to historic diners and restaurants throughout the State.

The bill requires the Division of Travel and Tourism in the Department of State to establish a historic diner and restaurant registry to certify the historic diners and historic restaurants that have been in continuous operation for at least 25 years. Any historic diner included on the registry is entitled to: (1) a sales tax exemption for the sales of prepared foods and beverages for on-premises consumption at the historic diner or restaurant and (2) a corporation business tax or gross income tax credit for a portion of the costs incurred for the purchase of eligible ingredients used in the preparation of foods and beverages at the historic diner or historic restaurant.

The bill defines a “historic diner” as a diner that: (1) has been in continuous operation for at least 25 years, including any period of time in which the establishment was required to suspend dine-in services as a result of a public health emergency; (2) qualifies as a small business concern within the meaning of federal law; and (3) is in compliance with all applicable health, safety, and zoning requirements. In addition to meeting these requirements, the bill requires a historic restaurant to be a family-owned business entity, as defined in the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would result in annual State revenue losses of \$20.6 million to \$22.4 million in FY 2027, \$52.6 million to \$57.3 million in FY 2028, and \$55.2 million to \$60.1 million in FY 2029. The State will also incur indeterminate, additional costs associated with the establishment and administration of the historic diner and restaurant registry, beginning in FY 2027.

The OLS notes that the State revenue loss would be lower in the first year following the enactment of the bill because historic diners and restaurants that are included on the registry are not likely to receive their sales tax exemption certificates prior to December 31, 2026. Accordingly, the State will incur revenue losses associated with the sales tax exemption for the sales of prepared foods and beverages for on premises consumption only in the second half of FY 2027 (January 1, 2027 to June 30, 2027).

The bill requires the Director of the Division of Travel and Tourism to solicit applications from restaurant and diner operators for inclusion on the historic diner and restaurant registry within six months following the effective date of the bill. If the bill takes effect on July 1, 2026, then the director would be required to begin soliciting applications for the registry by January 1, 2027. The bill does not establish a deadline for the approval of registry applications and the issuance of tax credit and tax exemption certificates. However, given the timeline for the solicitation of registry applications, the OLS concludes it is likely that the State would incur the first revenue losses resulting from the bill beginning in FY 2027.

Additionally, the provision of tax credits to the operators of historic diners and restaurants under the bill will affect State revenues beginning in FY 2028. The bill allows eligible taxpayers

to claim the tax credits for the privilege period of tax year beginning on or after the January 1 next following the date of enactment. If the bill is enacted on July 1, 2026, eligible taxpayers would be permitted to claim the tax credits for tax year 2027. Tax year 2027 returns are to be filed in April 2028, or FY 2028.

Based on information published by the U.S. Census Bureau, the OLS estimates that 600 to 640 diners and restaurants will qualify for the tax incentives authorized by the bill. However, the OLS has made several assumptions to inform this estimate. The OLS notes that many establishments categorized by the U.S. Census Bureau as “limited-service restaurants,” including fast-food restaurants, pizza delivery shops, and takeout eating places, which may not qualify as restaurants under the bill because the sale of food and beverages to consumers for on-site consumption is not the principal business of those establishments. However, information regarding the proportion of sales of food and beverages for on-site consumption at these eateries is not available.

According to the U.S. Small Business Administration, 22.7 percent of businesses are family-owned businesses. The OLS supposes that a higher proportion of restaurants, including chain restaurant units that are owned by franchisees who are individuals, are family-owned businesses. Notably, the National Restaurant Association reports that seven out of ten restaurants in the United States are single-unit franchise operations. Under the bill, a family-owned business only qualifies for the tax incentives if the restaurant has been in continuous operation for at least 25 years. Although a higher proportion of restaurants are family-owned businesses, it is likely that not all family-owned restaurants that have been in business for 25 years are owned by the same family for the entire period for which the restaurant has been in operation, which ownership continuity is required to qualify for the tax incentives under the bill. According to data available through Cornell University, about 40 percent of U.S. family-owned businesses transition to a second-generation business. The OLS has reduced the estimated number of historic diners and restaurants that qualify for the tax incentives under the bill to account for these factors.

Sales and Use Tax Exemption

The OLS estimates that the sales and use tax exemption under the bill would result in annual State revenue losses of \$20.6 million to \$22.4 million in FY 2027, \$41.2 million to \$44.8 million in FY 2028, and \$43.2 million to \$47.1 million in FY 2029. The bill exempts the sale of prepared foods and beverages made at historic diners and restaurants for on-premises consumption from the sales and use tax during the 12-month period following the receipt of a sales tax exemption certificate by the operator of the historic diner or restaurant from the Division of Taxation. Actual State revenue losses will be driven by the number of historic diners and restaurants that received a sales and use tax exemption certificate and the total amount of exempt sales.

The State Constitution requires the revenue derived from one half-cent of the sales and use tax to be deposited into the Property Tax Relief Fund. The table on the following page shows the anticipated revenue loss that would be incurred by the General Fund and Property Tax Relief Fund due to the sales tax exemption provided by the bill.

Fiscal Year	General Fund Revenue Loss	Property Tax Relief Fund Revenue Loss
2027	\$19.0 MM to \$20.7 MM	\$1.6 MM to \$1.7 MM
2028	\$38.1 MM to \$41.4 MM	\$3.1 MM to \$3.4 MM
2029	\$40.0 MM to \$43.5 MM	\$3.3 MM to \$3.6 MM

According to the 2022 Economic Census conducted by the U.S. Census Bureau, food service establishments had average annual sales of approximately \$1.2 million to \$1.25 million. Assuming 600 to 640 diners and restaurants qualify for the tax exemption, these establishments would generate total annual sales of about \$730 million to \$795 million. The OLS assumes that about 70 percent of these sales, or \$511 million to \$556.5 million, are generated by the sale of food and

beverages for on-site consumption. The OLS calculated the estimated State revenue loss by applying the current New Jersey sales and use tax rate of 6.625 percent to the estimated \$511 million to \$556.5 million in food and beverage sales at these establishments and then adjusting that amount to reflect increases in the Consumer Price Index (CPI) for Food Away from Home. The CPI for Food Away from Home tracks the average monthly price changes of prepared meals and snacks purchased outside the home.

Tax Credits for Cost of Eligible Ingredients

The OLS estimates that the provision of tax credits to historic diners and restaurants will reduce State revenues by \$11.4 million to \$12.4 million in FY 2028, and \$12.0 million to \$13.1 million in FY 2029. As noted above, the State will not incur FY 2027 revenue losses resulting from the tax credits under the bill because the tax credits will first be claimed on tax year 2027 returns filed in FY 2028. The bill allows the operator of a historic diner or restaurant that is included on the registry to claim a corporation business tax credit or gross income tax credit equal to 10 percent of the cost incurred by the taxpayer during the taxable year, not to exceed \$25,000, for the purchase of eligible ingredients used in the preparation of foods or beverages at the historic diner or restaurant. The bill exempts alcoholic beverages and tobacco from the definition of “eligible ingredient.”

According to the National Restaurant Association, the average restaurant spends about 30 percent of its annual sales revenue on food and beverage ingredients. Based on 2022 Economic Census data, historic diners and restaurants had average annual sales of approximately \$709.3 million to \$772.5 million, not including alcoholic beverages and tobacco. The OLS estimates that these establishments incurred about \$14,000 to \$14,560 in average annual costs related to the purchase of eligible food and beverage ingredients. The total amount of State revenue losses was determined by multiplying the estimated number of qualifying historic diners and restaurants (600 to 640) by the estimated average credit per restaurant (\$14,000 to \$14,560) and then adjusting that amount to reflect increases in the CPI for Food Away from Home.

Additional State Administrative Costs

The OLS notes that the State would incur indeterminate additional administrative costs associated with the establishment of the historic diner and restaurant registry. The actual costs will depend on a number of factors, including the information technology costs necessary to develop and maintain the registry, whether the registry is established and maintained by the Department of State or if the department chooses to enter into a contract with another entity to perform these duties, and the number of additional staff that may need to be hired to perform associated duties. For context, in a fiscal estimate for Senate Bill No. 2339 (1R) of the 2024-2025 Session, the OLS estimated that the establishment of State Parkinson’s disease registry would result in additional State expenditures of up to \$1.0 million.

Section: Revenue, Finance, and Appropriations
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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.).