ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5587

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably Assembly Bill No. 5587, with committee amendments.

As amended, this bill, concerns the State's casino gaming industry and revises existing law relating to the requirements for casino licensees and the casino gaming industry's financial responsibilities to Atlantic City, Atlantic County, and the Atlantic City School District, which are all affected by, and dependent on, the success of the casino gaming industry.

Section 2 of the bill amends the "Casino Control Act," P.L.1977, c.110 (C.5:12-1 et seq.) with respect to the financial requirements that are required to be met by an applicant for a casino license. Current law requires that an applicant demonstrate the ability to make necessary capital and maintenance expenditures in a timely manner to ensure the maintenance of a superior, first class facility of exceptional quality, and demonstrate having met that standard if its capital expenditures, over a five-year period, average five percent of net revenue annually. The bill would require that an applicant demonstrate the ability to make only necessary capital expenditures that are adequate to ensure a superior, first class facility of exceptional quality.

Section 3 of the bill concerns the calculation of the annual payments in lieu of property taxes (PILOT) that casino gaming properties are required to pay to Atlantic City from 2017 through 2016, as provided under the "Casino Property Tax Stabilization Act," P.L.2016, c.5 (C.52:27BBBB-18 et al.). The bill would require the casino gaming properties to pay Atlantic City $110 million in PILOT payments for calendar year 2022. For calendar years 2023, 2024, 2025, and 2026, the base amount of the PILOT payment would be determined based on gross gaming revenue totals. For each of these calendar years, the total amount of the PILOT payments would increase by two percent per year provided that there is no upward adjustment in the base amount of the PILOT. This section redefines "gross gaming revenue," for calendar years 2021 through 2026, to exclude revenue derived from Internet casino gaming and Internet sports wagering. This section also places a limit on the net liability of individual casino gaming

properties resulting from the elimination of the investment alternative tax credit after 2021.

Section 4 of the bill revises the amount of the additional payments that each casino gaming property is required to be remitted to the State. Under the "Casino Property Tax Stabilization Act," these additional payments were to be made by each casino gaming property in decreasing amounts between 2015 and 2023, with the final aggregate payment equaling $5 million in 2023. The bill extends these additional payments through 2026 and requires the payments to be made to the State not later than June 1 annually.

Section 5 of the bill concerns the portion of the funds collected by Atlantic City from the PILOT payments that are to be allocated annually to Atlantic County and the Atlantic City School District. Under the bill, the portion allocated to those entities in 2022 would be the same as 2021; thereafter, the allocations would be subject to an annual two percent increase for each year from 2023 through 2026, as well as upward or downward adjustments based on whether there is an upward or downward adjustment in the base amount of the PILOT, as specified in the bill.

Section 6 of the bill concerns the investment alternative tax and the investment alternative paid to the State Treasurer annually by the casino gaming properties. Under current law, the moneys received by the State Treasurer from the investment alternative tax and the investment alternative, except for any amount thereof pledged for the payment of bonds issued by the Casino Reinvestment Development Authority (CRDA) or otherwise contractually obligated by the authority, or any bonds issued to refund such bonds, is allocated to Atlantic City for the purposes of paying debt service on bonds issued by Atlantic City. This bill provides that if the moneys received by the State Treasurer from the payment of the investment alternative tax exceed the debt service on bonds issued by Atlantic City during any calendar year from 2022 through 2026, then the amount in excess of the debt service is to be reallocated to: the CRDA; the Clean and Safe Fund, established pursuant to section 7 of the bill; the Infrastructure Fund, established pursuant to section 8 of the bill; and Atlantic City for general municipal purposes.

Sections 7 and 8 of the bill create the Clean and Safe Fund and the Infrastructure Fund, respectively, into which the excess investment alternative tax funds would be appropriated. These funds would be held by the State Treasurer. Moneys deposited into the Clean and Safe Fund would be used by Atlantic City, or another governmental entity working on behalf of Atlantic City, to pay for capital public safety expenses, streetscape improvements, planting, roadway median improvements, shade trees, beautification, wayfinding, lighting, cleaning equipment, waste receptacles, sidewalk repair, and related maintenance within Atlantic City.

Moneys in the Infrastructure Fund would be used to pay for any local infrastructure improvements within Atlantic City.

COMMITTEE AMENDMENTS:

The committee amendments:

- Remove revenue generated by Internet casino gaming and Internet sports wagering from the calculation of gross gaming revenue for calendar years 2021 through 2026 rather than calendar years 2021 through 2025;
- Require the financial agreement between each casino gaming property and the Atlantic City to be modified to reflect and incorporate the provisions of the bill for calendar years 2022 through 2026;
- Set the amount of the calendar year 2022 PILOT at $110 million rather than $125 million;
- Establish new PILOT amounts that reflect the new method of calculating gross gaming revenue;
- Place a limit on the net liability of individual casino gaming properties resulting from the elimination of the investment alternative tax credit after 2021;
- Require the PILOT to be adjusted in each year when an existing casino gaming property no longer qualifies as a casino gaming property;
- Provide that the aggregate amount of additional payments paid by casino gaming properties to the State, as required under the "Casino Property Tax Stabilization Act," would equal $5 million per year for calendar years 2019 through 2026, instead of requiring each casino gaming property to make an additional annual payment of $5 million during this period;
- Require that the PILOT allocations to Atlantic County and the Atlantic City School District for calendar year 2022 would be same as they received in calendar year 2021, with a required two percent increase for each calendar year from 2023 through 2026, with required upward or downward adjustments based on whether there is an upward or downward adjustment in the base amount of the PILOT. As introduced, the bill required Atlantic County to receive 13.5 percent of the PILOT in calendar years 2022 through 2024 and 12 percent of the PILOT payment in calendar years 2025 and 2026. The introduced bill does not require the Atlantic City School District to receive a PILOT allocation of a specific amount, but does require the amount provided to the school district to increase by two percent annually from calendar year 2022 through calendar year 2026;

- Permit the use of investment alternative tax revenues to pay debt service on any refunding bonds issued by Atlantic City prior to and after the effective date of the "Casino Property Tax Stabilization Act" ;
- Allocate investment alternative tax revenues in excess of the amount required for CRDA or municipal debt service to be reallocated to the CRDA, the Clean and Safe Fund, the Infrastructure Fund, and to Atlantic City for general municipal purposes, in different proportions, as described in the bill;
- Require the excess investment alternative tax revenues allocated to the CRDA, Clean and Safe Fund, and Infrastructure Fund to be reduced in order to ensure that the amount allocated to Atlantic City increases by 2.5 percent annually;
- Require that investment alternative tax revenues in excess in the amounts specified in the bill are to be reimbursed to each casino gaming property, and if there are still amounts remaining, distributed to the CRDA; and
- Make technical changes to the findings and declarations section.

FISCAL IMPACT:

The Office of Legislative Services concludes that the bill will result a loss of local payment in-lieu of tax (PILOT) revenues in calendar years 2022 through 2026 likely falling in a range from $30 million to $65 million each year. Removing gross revenues generated by Internet casino gaming and Internet sports wagering will result in lower annual totals of gross gaming revenue (GGR) and reduce the PILOT due to the City of Atlantic City, Atlantic County, and the Atlantic City School District.

A portion of the municipal revenue loss will be offset by: 1) other casino-non tax payments of $5 million per year in calendar years 2024 through 2026; and 2) the reallocation of a portion of investment alternative tax (IAT) revenues not required to pay the Casino Reinvestment Development Authority (CRDA) and municipal debt service.

The State may also receive additional revenues because the bill requires a portion of the excess IAT revenues to be distributed to the CRDA. IAT revenue collections change annually and the OLS cannot project the amount of unreserved IAT funds that may be available to the State and the City of Atlantic City.