

ASSEMBLY BILL NO. 4002
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 4002 (First Reprint) with my recommendations for reconsideration.

This bill would allow a deduction of promotional gaming credits ("PGCs") from sports wagering gross revenue that would otherwise be subject to taxation. PGCs are credits, tokens, or other items of value provided to a player for the purpose of enabling the player to place a wager. Sportsbooks can utilize PGCs to attract new players to their wagering operation by offering promotions like deposit-matching bonuses, risk-free wagers, and other similar comps.

The PGC deduction was established in 2008 and originally allowed only PGCs wagered at slot machines physically located in a casino to be deducted from a casino's gross revenue for the purpose of determining the 8 percent tax on casino gross revenue. Through the years, the PGC deduction has been expanded to include PGCs wagered through Internet gaming systems and sports pools, which are not exclusively operated by casinos. Because racetracks are not subject to the 8 percent casino gross revenue tax, the PGC deduction applicable to sports wagering is not available to them. The purpose of this bill is to allow racetracks to take advantage of the PGC deduction by applying the deduction to the taxes on sports wagering revenue that are paid by both casinos and racetracks for retail operations.

I commend the sponsors of this bill for endeavoring to eliminate the disparity in current tax treatment between racetracks and casinos by revising the manner in which the PGC deduction is applied. New Jersey's historic racetracks are a key economic engine, supporting local economies and attracting

tourists and fans from around the world. Under the bill, racetracks that operate a sportsbook would have access to the same benefits as their casino counterparts. The tax benefits afforded by this legislation would hopefully incentivize casinos and racetracks to offer promotions that will attract patrons to Atlantic City, the State's racetracks, and surrounding communities.

However, I am concerned that the bill's parallel tax break for online sports wagering undermines the bill's laudable goal of ushering in a resurgence of visitors to Atlantic City and our racetracks. While operational closures resulting from the Coronavirus disease 2019 (COVID-19) pandemic harmed the State's tourism economy generally and the brick-and-mortar casino and racing industries in particular, online casino gambling and online sports wagering operations have thrived. In fact, these operators have seen record performances during recent months, with sports pool operators taking in more than \$1 billion in bets with the State's licensed sportsbooks in September 2021 alone, over 90 percent of which was wagered through online sportsbooks. September 2021 was also a record month for online casino revenue, reaching a total gaming revenue record of over \$450 million.

The use of tax breaks to spur economic activity must always be measured against the detriment to the many worthwhile causes that the foregone tax revenues would have supported. Revenue derived from casino operations is constitutionally dedicated to providing reductions in property taxes, rental, telephone, gas, electric, and municipal utilities charges of senior citizens and disabled residents of the State, and for additional or expanded health services or transportation services to senior citizens and disabled residents. Other taxes imposed on casino and racetrack

sports pool operations are used for tourism and marketing programs for Atlantic City and, in the case of racetracks, distributed to the municipality and to the county in which the sports wagering lounge is located or to an economic development authority of that municipality and county.

Given the record performance of online sports wagering operations and the tenuous connection between online wagering and tourism and local economic growth, I am suggesting revisions to the bill to apply the PGC deduction only to the gross revenue tax on non-Internet sports pool operations with the hope that the expansion of PGCs will attract new visitors.

Moreover, I am suggesting the elimination of a provision from this bill that reverses a longstanding policy that requires PGCs to be returned to winning bettors in order to qualify for a deduction. As written, the bill provides that any free bet amounts or promotional wagering amounts qualify for a deduction regardless of any playthrough requirements. This provision provides an additional windfall for sports pool operators, as they would be permitted to deduct promotional gaming credits that the bettor had little to no chance of winning.

This legislation, though well-intended, fails to acknowledge the vastly divergent impacts the pandemic has had on the State's gaming economy. I look forward to working with my partners in the Legislature to advance initiatives with a greater focus on the revitalization of Atlantic City and the State's horseracing industry.

Therefore, I herewith return Assembly Bill No. 4002 (First Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Line 8:

After "revenue" insert "from non-Internet sports wagering"

Page 2, Section 1, Lines 10-11: Delete ", whether or not such amounts include a play-through requirement or other restriction,"

Page 2, Section 1, Line 14: Delete "(1) A casino or racetrack that holds a sports wagering license"

Page 2, Section 1, Lines 15-22: Delete in their entirety

Page 2, Section 1, Line 23: Delete "(2)"

Page 3, Section 1, Line 5: After ("C.5:12-144.2)."
insert "e. As used in this section, 'promotional gaming credit' means a sports wagering credit or other item approved by the division that is issued by a casino or racetrack that holds a sports wagering license to a patron for the purpose of enabling the placement of a wager in a sports pool in the licensee's casino or racetrack. No such credit shall be reported as a promotional gaming credit unless the licensee can establish that the credit was issued by the licensee and received from a patron as a wager in a sports pool in the licensee's casino or racetrack."

Respectfully,

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/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor