

**54:10A-5.41  
LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2020                 **CHAPTER:** 95

**NJSA:** 54:10A-5.41 (Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.)

**BILL NO:** A4721               (Substituted for S2934)

**SPONSOR(S)** Shavonda E. Sumter and others

**DATE INTRODUCED:** 9/21/2020

**COMMITTEE: ASSEMBLY:** Budget

**SENATE:** Budget & Appropriations

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE: ASSEMBLY:** 9/24/2020

**SENATE:** 9/24/2020

**DATE OF APPROVAL:** 9/29/2020

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL** (Introduced bill enacted)                     Yes

**A4721**

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT: ASSEMBLY:** Yes

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**S2934**

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT: ASSEMBLY:** No

**SENATE:** Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** Yes

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

“Smooth operators”, NJBIZ (New Brunswick, NJ), September 28, 2020

RWH/CL

P.L. 2020, CHAPTER 95, *approved September 29, 2020*  
Assembly, No. 4721

1 AN ACT imposing the corporation business tax surtax at a rate of 2.5  
2 percent through December 31, 2023 and amending P.L.2018, c.48.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 1 of P.L.2018, c.48 (C.54:10A-5.41) is amended to  
8 read as follows:

9 1. a. In addition to the tax paid by each taxpayer determined  
10 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), each taxpayer,  
11 except for a public utility, shall be assessed and shall pay a surtax as  
12 follows:

13 (1) For a taxpayer, except a public utility, that has allocated  
14 taxable net income in excess of \$1 million for the privilege periods,  
15 beginning on or after January 1, 2018 through December 31, **[2019]**  
16 2023, the surtax imposed shall be 2.5%; provided, however, that if  
17 the federal corporate income tax rate imposed pursuant to section 11  
18 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.11) is  
19 increased to a rate of at least 35% of taxable income, the imposition  
20 of the surtax imposed pursuant to this section shall be suspended  
21 following the conclusion of a taxpayer's privilege period  
22 corresponding with the increase to the federal corporate income tax  
23 rate.

24 (2) **[**For a taxpayer, except a public utility, that has allocated  
25 taxable net income in excess of \$1 million for the privilege periods,  
26 beginning on or after January 1, 2020 through December 31, 2021,  
27 the surtax imposed shall be 1.5%.**]** (Deleted by amendment, P.L. \_\_,  
28 c. \_\_) (pending before the Legislature as this bill)

29 b. For purposes of this section,

30 (1) "taxpayer" shall mean any business entity that is subject to tax  
31 as provided in the Corporation Business Tax (1945), P.L.1945, c.162  
32 (C.54:10A-1 et seq.).

33 (2) "allocated taxable net income" shall mean allocated entire net  
34 income for privilege periods ending before July 31, 2019, or taxable  
35 net income as defined in subsection (w) of section 4 of P.L.1945,  
36 c.162 (C.54:10A-4) for privilege periods ending on and after July 31,  
37 2019.

38 The surtax imposed under this section shall be imposed on  
39 allocated taxable net income, and shall be due and payable in

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 accordance with section 15 of P.L.1945, c.162 (C.54:10A-15), and  
2 the surtax shall be administered pursuant to the provisions of  
3 P.L.1945, c.162 (C.54:10A-1 et seq.). Notwithstanding the  
4 provisions of any other law to the contrary, no credits shall be  
5 allowed against the surtax liability computed under this section  
6 except for credits for installment payments, estimated payments  
7 made with a request for an extension of time for filing a return, or  
8 overpayments from prior privilege periods.

9 (cf: P.L.2018, c.131, s.7)

10

11 2. (New section) The Director of the Division of Taxation in the  
12 Department of the Treasury shall waive all penalties incurred by a  
13 taxpayer because of the retroactive imposition of an increased surtax  
14 rate pursuant to P.L. , c. (pending before the Legislature as this  
15 bill).

16

17 3. This act shall take effect immediately and apply retroactively  
18 to privilege periods beginning on or after January 1, 2020.

19

20

21

#### STATEMENT

22

23 This bill imposes the existing corporation business tax (CBT)  
24 surtax at a rate of 2.5 percent until December 31, 2023. However, if  
25 the federal corporate income tax rate is increased to its pre-Tax Cut  
26 and Jobs Act (35% of taxable income) level, the surtax will be  
27 suspended at the end of a taxpayer's current privilege period. Under  
28 current law, the CBT surtax rate was reduced to 1.5 percent on  
29 January 1, 2020, and is scheduled to be eliminated after December  
30 31, 2021.

31 The bill also requires the Director of the Division of Taxation in  
32 the Department of the Treasury to waive all penalties that a taxpayer  
33 may incur because of the retroactive imposition of the surtax rate.

34 The CBT surtax is currently imposed on taxpayers that are not  
35 public utilities and that have allocated taxable net income in excess  
36 of \$1 million. Taxpayers are not allowed to apply tax credits against  
37 the surtax liability, except those credits for installment payments,  
38 estimated payments with a request for an extension of time for filing  
39 a return, or overpayments from prior privilege periods.

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43

44 Imposes CBT surtax at rate of 2.5 percent until December 31,  
45 2023.

# ASSEMBLY, No. 4721

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

**Sponsored by:**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 9/24/2020)

1 AN ACT imposing the corporation business tax surtax at a rate of 2.5  
2 percent through December 31, 2023 and amending P.L.2018, c.48.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State  
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7 1. Section 1 of P.L.2018, c.48 (C.54:10A-5.41) is amended to  
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13 (1) For a taxpayer, except a public utility, that has allocated  
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16 2023, the surtax imposed shall be 2.5%; provided, however, that if  
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27 the surtax imposed shall be 1.5%.**]** (Deleted by amendment, P.L. ,  
28 c. ) (pending before the Legislature as this bill)

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35 net income as defined in subsection (w) of section 4 of P.L.1945,  
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38 The surtax imposed under this section shall be imposed on  
39 allocated taxable net income, and shall be due and payable in  
40 accordance with section 15 of P.L.1945, c.162 (C.54:10A-15), and  
41 the surtax shall be administered pursuant to the provisions of  
42 P.L.1945, c.162 (C.54:10A-1 et seq.). Notwithstanding the  
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**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 made with a request for an extension of time for filing a return, or  
2 overpayments from prior privilege periods.

3 (cf: P.L.2018, c.131, s.7)

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5 2. (New section) The Director of the Division of Taxation in the  
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STATEMENT

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17 This bill imposes the existing corporation business tax (CBT)  
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25 The bill also requires the Director of the Division of Taxation in  
26 the Department of the Treasury to waive all penalties that a taxpayer  
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28 The CBT surtax is currently imposed on taxpayers that are not  
29 public utilities and that have allocated taxable net income in excess  
30 of \$1 million. Taxpayers are not allowed to apply tax credits against  
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32 estimated payments with a request for an extension of time for filing  
33 a return, or overpayments from prior privilege periods.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4721

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 22, 2020

The Assembly Budget Committee reports favorably Assembly Bill No. 4721.

This bill imposes the existing corporation business tax (CBT) surtax at a rate of 2.5 percent until December 31, 2023. However, if the federal corporate income tax rate is increased to its pre-Tax Cut and Jobs Act (35% of taxable income) level, the surtax will be suspended at the end of a taxpayer's current privilege period. Under current law, the CBT surtax rate was reduced to 1.5 percent on January 1, 2020, and is scheduled to be eliminated after December 31, 2021.

The bill also requires the Director of the Division of Taxation in the Department of the Treasury to waive all penalties that a taxpayer may incur because of the retroactive imposition of the surtax rate.

The CBT surtax is currently imposed on taxpayers that are not public utilities and that have allocated taxable net income in excess of \$1 million. Taxpayers are not allowed to apply tax credits against the surtax liability, except those credits for installment payments, estimated payments with a request for an extension of time for filing a return, or overpayments from prior privilege periods.

FISCAL IMPACT:

The OLS is projecting additional revenues of \$244.4 million from the increased surtax rate. As part of the Governor's revised FY 2021 budget proposal, the Executive projected an increase in the CBT surtax rate from 1.5% to 2.5% to yield \$210 million in additional revenue for FY 2021. Given the complexity of the CBT and the difficulty of forecasting both corporate financial performance and taxpayer decisions, which can affect tax liability in the short run, the OLS and the Executive's estimates should each be considered as within the range of the bill's likely impact.



**LEGISLATIVE FISCAL ESTIMATE**  
**ASSMEBLY, No. 4721**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: SEPTEMBER 29, 2020

**SUMMARY**

**Synopsis:** Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.

**Type of Impact:** Annual State revenue gain to General Fund.

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

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>
<b>State Revenue Gain</b>	\$243 million to \$333 million	\$245 million to \$342 million	\$446 million to \$664 million

- The Office of Legislative Services (OLS) projects additional revenues of \$243 million to \$333 million in FY 2021 from increasing the corporation business tax (CBT) surtax rate from 1.5 percent to 2.5 percent. Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by \$245 million to \$342 million in FY 2022 and \$446 million to \$664 million in FY 2023. If the bill is enacted, the surtax would be set to expire after December 31, 2023; thus, the surtax would fully impact FY 2021 through parts of FY 2024. Revenue from the surtax would start to decline during the latter half of FY 2024 and onward.

**BILL DESCRIPTION**

This bill imposes the existing CBT surtax at a rate of 2.5 percent until December 31, 2023. However, if the federal corporate income tax rate is increased to its pre-Tax Cut and Jobs Act (35 percent of taxable income) level, the surtax will be suspended at the end of a taxpayer's current privilege period. Under current law, the CBT surtax rate was reduced to 1.5 percent on January 1, 2020, and is scheduled to be eliminated after December 31, 2021.

The bill also requires the Director of the Division of Taxation in the Department of the Treasury to waive all penalties that a taxpayer may incur because of the retroactive imposition of the surtax rate.

The CBT surtax is currently imposed on taxpayers that are not public utilities and that have allocated taxable net income in excess of \$1 million. Taxpayers are not allowed to apply tax credits

against the surtax liability, except those credits for installment payments, estimated payments with a request for an extension of time for filing a return, or overpayments from prior privilege periods.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

As part of the Governor's revised FY 2021 budget proposal, the Executive projected an increase in the CBT surtax rate from 1.5 percent to 2.5 percent would yield \$210 million in additional revenue for FY 2021.

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

The OLS projects additional revenues of \$243 million to \$333 million in FY 2021 from increasing the CBT surtax rate from 1.5 percent to 2.5 percent. Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by \$245 million to \$342 million in FY 2022 and \$446 million to \$664 million in FY 2023. If the bill is enacted, the surtax would be set to expire after December 31, 2023; thus, the surtax would fully impact FY 2021 through parts of FY 2024. Revenue from the surtax would start to decline during the latter half of FY 2024 and onward.

The OLS does not have access to taxpayer data, so it cannot determine the amounts collected from the current surtax. The OLS only has access to audited collections from the State's Comprehensive Annual Financial Report for FY 2018, the last fiscal year unaffected by the surtax and other significant alterations to the CBT tax base (i.e. federal and State policy changes). The FY 2018 collections are used as the tax base for this analysis, since that fiscal year was the last unaffected by any major policy changes at both the State and federal levels. Some of those policy changes did broaden the tax base, such as combined reporting, and thus, the surtax likely yielded more revenue than originally estimated as a result. So, the OLS also utilized audited collections from FY 2019, which reflects the implementation of the tax base changes and favorable economic conditions.

If the OLS uses FY 2018 audited collections and certain adjustments to determine a tax base, the 2.5 percent surtax would yield roughly \$584 million annually. Under identical conditions, a 1.5 percent surtax would yield roughly \$328 million annually. Similarly, using FY 2019 audited collections to determine the CBT tax base, the 2.5 percent surtax would yield roughly \$876 million and the 1.5 percent surtax would yield \$526 million. The bill's impact is the difference between the set of 2.5 percent estimates and 1.5 percent estimates, so the bill's range of likely outcomes is anywhere between \$256 million (\$584 million *less* \$328 million) and \$350 million (\$876 million *less* \$526 million). To account for current economic conditions impacting corporate financial performance and the retroactive imposition of the 2.5 percent surtax rate, the OLS adjusted its estimate to \$243 million to \$333 million for FY 2021.

Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by \$245 million to \$342 million in FY 2022 and \$446 million to \$664 million in FY 2023.

*Section: Revenue, Finance and Appropriations*

*Analyst: Jordan M. DiGiovanni  
Revenue Analyst*

*Approved: Frank W. Haines III  
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.).

**SENATE, No. 2934**

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

INTRODUCED SEPTEMBER 21, 2020

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**SYNOPSIS**

Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.

**CURRENT VERSION OF TEXT**

As introduced.



S2934 SWEENEY

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2 percent through December 31, 2023 and amending P.L.2018, c.48.

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43 provisions of any other law to the contrary, no credits shall be  
44 allowed against the surtax liability computed under this section  
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**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

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1 made with a request for an extension of time for filing a return, or  
2 overpayments from prior privilege periods.

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5 2. (New section) The Director of the Division of Taxation in the  
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STATEMENT

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# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE, No. 2934

# STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2934.

This bill imposes the existing corporation business tax (CBT) surtax at a rate of 2.5 percent until December 31, 2023. However, if the federal corporate income tax rate is increased to its pre-Tax Cut and Jobs Act (35% of taxable income) level, the surtax will be suspended at the end of a taxpayer's current privilege period. Under current law, the CBT surtax rate was reduced to 1.5 percent on January 1, 2020, and is scheduled to be eliminated after December 31, 2021.

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#### FISCAL IMPACT:

The Office of Legislative Services (OLS) is projecting additional revenues of \$244.4 million from the increased surtax rate. As part of the Governor's revised FY 2021 budget proposal, the Executive projected an increase in the CBT surtax rate from 1.5% to 2.5% to yield \$210 million in additional revenue for FY 2021. Given the complexity of the CBT and the difficulty of forecasting both corporate financial performance and taxpayer decisions, which can affect tax liability in the short run, the OLS and the Executive's estimates should each be considered as within the range of the bill's likely impact.

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 2934**  
**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

DATED: SEPTEMBER 29, 2020

**SUMMARY**

**Synopsis:** Imposes CBT surtax at rate of 2.5 percent until December 31, 2023.

**Type of Impact:** Annual State revenue gain to General Fund.

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

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>FY 2021</u></b>	<b><u>FY 2022</u></b>	<b><u>FY 2023</u></b>
<b>State Revenue Gain</b>	\$243 million to \$333 million	\$245 million to \$342 million	\$446 million to \$664 million

- The Office of Legislative Services (OLS) projects additional revenues of \$243 million to \$333 million in FY 2021 from increasing the corporation business tax (CBT) surtax rate from 1.5 percent to 2.5 percent. Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by \$245 million to \$342 million in FY 2022 and \$446 million to \$664 million in FY 2023. If the bill is enacted, the surtax would be set to expire after December 31, 2023; thus, the surtax would fully impact FY 2021 through parts of FY 2024. Revenue from the surtax would start to decline during the latter half of FY 2024 and onward.

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## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

As part of the Governor's revised FY 2021 budget proposal, the Executive projected an increase in the CBT surtax rate from 1.5 percent to 2.5 percent would yield \$210 million in additional revenue for FY 2021.

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

The OLS projects additional revenues of \$243 million to \$333 million in FY 2021 from increasing the CBT surtax rate from 1.5 percent to 2.5 percent. Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by \$245 million to \$342 million in FY 2022 and \$446 million to \$664 million in FY 2023. If the bill is enacted, the surtax would be set to expire after December 31, 2023; thus, the surtax would fully impact FY 2021 through parts of FY 2024. Revenue from the surtax would start to decline during the latter half of FY 2024 and onward.

The OLS does not have access to taxpayer data, so it cannot determine the amounts collected from the current surtax. The OLS only has access to audited collections from the State's Comprehensive Annual Financial Report for FY 2018, the last fiscal year unaffected by the surtax and other significant alterations to the CBT tax base (i.e. federal and State policy changes). The FY 2018 collections are used as the tax base for this analysis, since that fiscal year was the last unaffected by any major policy changes at both the State and federal levels. Some of those policy changes did broaden the tax base, such as combined reporting, and thus, the surtax likely yielded more revenue than originally estimated as a result. So, the OLS also utilized audited collections from FY 2019, which reflects the implementation of the tax base changes and favorable economic conditions.

If the OLS uses FY 2018 audited collections and certain adjustments to determine a tax base, the 2.5 percent surtax would yield roughly \$584 million annually. Under identical conditions, a 1.5 percent surtax would yield roughly \$328 million annually. Similarly, using FY 2019 audited collections to determine the CBT tax base, the 2.5 percent surtax would yield roughly \$876 million and the 1.5 percent surtax would yield \$526 million. The bill's impact is the difference between the set of 2.5 percent estimates and 1.5 percent estimates, so the bill's range of likely outcomes is anywhere between \$256 million (\$584 million *less* \$328 million) and \$350 million (\$876 million *less* \$526 million). To account for current economic conditions impacting corporate financial performance and the retroactive imposition of the 2.5 percent surtax rate, the OLS adjusted its estimate to \$243 million to \$333 million for FY 2021.

Since the surtax is currently set to expire on December 31, 2021, the impact of this bill will be greater in FY 2022 through FY 2024. The OLS projects revenues to increase by \$245 million to \$342 million in FY 2022 and \$446 million to \$664 million in FY 2023.

*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.).

# Governor Murphy Takes Action on Legislation

09/29/2020

**TRENTON** – Today, Governor Murphy signed the following bills into law:

**A-10/S-2949 (Coughlin, Giblin/Addiego, Greenstein)** – Increases gross income tax rate from 8.97 percent to 10.75 percent on income between \$1,000,000 and \$5,000,000, and provides up to \$500 tax rebate to eligible taxpayers

**A-4721/S-2934 (Sumter/Sweeney)** – Imposes CBT surtax at rate of 2.5 percent until December 31, 2023

**A-4722/S-2935 (McKeon/Pou)** – Increases annual assessment on net written premiums of HMOs to support charity care from three percent to five percent in FY 2021

**S-2178/A-3292 (Vitale, Rice/Vainieri Huttie, Reynolds-Jackson, Jasey)** – Repeals family cap in Work First New Jersey program