

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: HB2536

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: O'Quinn

3. Committee: Rules

4. Title: Lottery Board; regulation of casino gaming; penalties.

5. Summary: Authorizes casino gaming in the Commonwealth to be regulated by the Virginia Lottery Board (the Board). The bill specifies the licensing requirements for casino gaming and imposes criminal and civil penalties for violations of the casino gaming law. Casino gaming shall be limited to (i) any city in which at least 40 percent of the land area is exempt from local real property taxation pursuant to federal law or specified sections of the Constitution of Virginia; (ii) any city that had a rate of unemployment at least four percentage points higher than the statewide average, a poverty rate of at least 20 percent, and a population decrease in the locality of at least 20 percent from the previous year, all computed as of November 2017; or (iii) any city that had a rate of unemployment at least four percentage points higher than the statewide average, a poverty rate of at least 22 percent, and a population decrease in the locality of at least 20 percent from the previous year, all computed as of November 2017, and located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. The bill imposes a tax of 10 percent on the adjusted gross receipts of licensees and provides for how the tax proceeds are disbursed. In addition, a referendum must be passed in the city on the question of allowing casino gaming in the city. The bill requires the Board to establish and implement a voluntary exclusion program allowing individuals to voluntarily list themselves as being barred from entering a casino gaming establishment or other facility under the jurisdiction of the Board. The bill also establishes the Problem Gambling Treatment and Support Fund administered by the Commissioner of Behavioral Health and Developmental Services to provide counseling and other support services for compulsive and problem gamblers, develop problem gambling treatment and prevention programs, and provide grants to support organizations that provide assistance to compulsive gamblers.

6. Budget Amendment Necessary: Yes – Department of Corrections (Item 391 of House Bill 1700, 2019).

7. Fiscal Impact Estimates: Preliminary – see Item 8. Pursuant to § 30-19.1:4 of the Code of Virginia, the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined as the legislation imposes misdemeanor and felony punishments for anyone convicted of violating the provisions of this bill. In such cases, Chapter 2 of the 2018

Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill. The estimated costs for other state agencies impacted by the proposed legislation are explained in Item 8.

Expenditure Impact: Department of Corrections

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2019	\$0	0.00	-
2020	\$50,000	0.00	GF

- 8. Fiscal Implications:** The proposed legislation is expected to have a state fiscal impact for the Virginia Lottery, Department of Behavioral Health and Developmental Services (DBHDS), Virginia State Police (VSP), and Department of Corrections (DOC). The estimated cost for the impacted state agencies are explained below.

The Virginia Lottery is expected to incur additional costs for implementing the provisions of this bill; however, the costs cannot be determined at this time because the administrative costs will be dependent upon the number of casino gaming applications received as well as the approval of a local referendum. The Virginia Lottery estimates that the regulatory and oversight functions, including vetting and licensure of operators and suppliers, on-premise monitoring, audit of records, and management of daily tax transfers and associated monthly, quarterly, and annual reporting, can be supported with the allocation of gross receipts. The proposed legislation authorizes the Virginia Lottery to assess a nonrefundable application fee of \$50,000 for filing a casino gaming application, a \$5,000 application fee for a supplier permit, and a fee, to be determined by the Lottery Board, for anyone wanting to obtain a service permit. The fees are expected to defray the costs incurred by the Lottery Board. A portion of the 10 percent tax imposed on the adjusted gross receipts from each licensed casino operator is to be deposited into the general fund and a portion of the funding deposited into the general fund is to be used to support the Virginia Lottery Board's operating and administrative costs for regulating casino gaming. The Virginia Lottery is prohibited from granting any initial license to operate a casino gaming operation until a referendum approving the question is held in each city in which a casino gaming operation is to be located.

The DBHDS is required to administer the Problem Gambling Treatment and Support Fund (Fund). The Fund will be used solely for providing counseling and other support services for compulsive and problem gamblers, developing and implementing problem gambling treatment and prevention programs, and providing grants to supporting organizations that provide assistance to compulsive gamblers. Currently, DBHDS does not provide any counseling or rehabilitative services for gambling addiction. According to DBHDS, based on the population density of Virginia, this legislation may need up to 25 full-time equivalent positions through the Community Services Boards (CSB) and the DBHDS central office at a total cost of \$1.9 million per year in staffing. Additionally, using the costs of administering the Mental Health First Aid program as a blueprint, DBHDS projects the need for an additional \$600,000 per year for the costs of regional training programs and \$500,000 in

additional support to the CSBs for locally administered programs. The revenue deposited in the Fund is expected to be used to defray DBHDS' administrative costs.

The table below provides a break out of DBHDS estimated fiscal impact.

<u>Expense</u>	<u>Cost</u>	<u>Number of FTEs</u>	<u>Total</u>
CSB Staff	\$75,000/ per position	24.00	\$1,875,000
Central Office Staff	\$75,000/ per position	1.00	\$75,000
Treatment/Training Programs	\$1,100,000	-	\$1,100,000
Total		25.00	\$3,050,000

The proposed legislation imposes a Class 1 misdemeanor, Class 4 felony, and Class 6 felony for anyone convicted of violating the provisions of the proposed legislation. For a Class 1 misdemeanor, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both is required. For a Class 4 felony, a term of imprisonment of not less than two years nor more than 10 years and a fine of not more than \$100,000. For a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in fiscal year 2017.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to § 30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill.

The proposed legislation requires a background investigation, including a criminal history records check and fingerprinting of individuals applying for a casino gaming license or permit. The Virginia State Police (VSP), which manages the Central Criminal Records Exchange (CCRE), expects the proposed legislation will have a fiscal impact for the agency; however, the estimated fiscal impact for the VSP cannot be determined at this time because the VSP's costs would be dependent upon the number of persons applying for a casino gaming license or permit. According to the VSP, its current staffing of the fingerprint section

of the CCRE may not be able to absorb the additional work to meet the requirements of the proposed legislation. Based on the current work processes in the CCRE, it is estimated that one full-time equivalent fingerprint technician can process approximately 10,000 fingerprint requests. If future investigations and fingerprinting requirements were to increase to this degree, the estimated annual fiscal impact for one full-time equivalent fingerprint position at the VSP would be \$81,868, which includes salary and benefits and would be supported through the general fund.

Revenue estimates and associated funds available to the Problem Gambling Treatment and Support Fund, the Virginia Public School Construction Grants Program and Fund, and the State Local Casino Gaming Proceeds Fund will vary depending on the number of establishments approved by referendum and licensed by the Board, as well as the type of games offered and scope of the facility. There is also no anticipation of the timing of such referendum passage or construction/retrofitting of a casino facility.

The proposed legislation authorizes civil penalties of no more than \$100,000 to be assessed by the Virginia Lottery Board for anyone who has their casino gaming license or permit suspended or revoked. The Virginia Lottery Board is also authorized to assess civil penalties for anyone who conducts a gaming operation without obtaining a license through the Virginia Lottery Board. The civil penalties are to be deposited into the general fund.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Lottery, Department of Education, Department of Behavioral and Developmental Services, Attorney General and Department of Law, Department of Corrections, Virginia State Police, Department of Accounts, and Department of the Treasury, and localities.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** The proposed legislation is similar to Senate Bill 1126-S1 (Lucas), House Bill 1890 (James), and House Bill 2698 (Knight).

The proposed legislation is also similar to Senate Bill 1574 (Norment). Senate Bill 1574 (Norment) is similar to the other casino gaming bills, except Senate Bill 1574 provides the General Assembly with the authority of determining whether an activity or device is considered a "game". The casino gaming bills provide the Virginia Lottery Board with the authority of determining whether an activity or device is considered a "game".

The proceeds from the tax rate in Senate Bill 1126-S1 and the other casino gaming bills would be distributed among several different funds, including the Virginia Public School Construction Grants Program Fund, which is authorized in § 22.1-175.1, Code of Virginia, to provide grants to eligible school divisions for school construction, additions, infrastructure, site acquisition for public school buildings and facilities, and renovations, including the costs of retrofitting or enlarging public school buildings. The casino gaming bills would also distribute proceeds from the tax rate to the Problem Gambling Treatment and

Support Fund, administered by the Department of Behavioral Health and Developmental Services, and the State Local Casino Gaming Proceeds Fund.

Senate Bill 1574 would require 40 percent of the adjusted gross receipts, defined as the gross receipts from gaming less winnings paid to winners, to be deposited into the general fund. The adjusted gross receipts would be distributed as follows: 40 percent into a special nonreverting fund known as the Higher Education Affordability Reserve Fund, to be appropriated by the General Assembly in a general appropriations act to support initiatives to limit increases in tuition and fees at public institutions of higher education in the Commonwealth; 40 percent into a special nonreverting fund known as the School Construction and Modernization Fund, to be appropriated by the General Assembly in a general appropriations act to support initiatives to construct or modernize primary and secondary public schools in the Commonwealth; and 20 percent into a special nonreverting fund known as the Virginia Tourism Reserve Fund, to be appropriated by the General Assembly in a general appropriations act to market and promote tourism destinations in the Commonwealth.