

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: SB1126-S1

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

2. Patron: Lucas

3. Committee: Finance

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

5. Summary: The substitute 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 any city that meets the following criteria:

- At least 40 percent of the land area must be exempt from local real property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2017, and a population decrease of at least seven percent from 1990 to 2016, according to the U.S. Census Bureau
- An unemployment rate of at least five percent in November 2017, according to the U.S. Bureau of Labor Statistics; a poverty rate of at least 20 percent in 2016, according to the U.S. Census Bureau; and a population decrease of at least 20 percent from 1990 to 2016, according to the U. S. Census Bureau
- An unemployment rate of at least four percent in November 2017, according to data provided by the U.S. Bureau of Labor Statistics; a poverty rate of at least 20 percent in 2016, according to the U.S. Census Bureau; a population decrease of at least four percent from 1990 to 2016, according to the U.S. Census Bureau; and located adjacent to a state that has adopted a Border Region Retail Tourism Development District Act
- A population greater than 200,000, according to the 2017 population estimates from the Weldon Cooper Center for Public Service of the University of Virginia; at least 24 percent of the land area must be exempt from local real property taxation, according to the Virginia Department of Taxation Annual Report for Fiscal Year 2017, provided that such casino gaming is conducted by a Virginia Indian tribe recognized in House Joint Resolution 54 (1983) and acknowledged by the U.S. Assistant Secretary-Indian Affairs as an Indian tribe within the meaning of federal law that has authority to conduct gaming activities as a matter of claimed inherent authority or under the authority of the Indian Gaming Regulatory 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.

The substitute bill incorporates Senate Bill 1503 (Carrico) and Senate Bill 1706 (Lewis).

The substitute bill includes additional requirements for the Board:

- Conduct a review of casino gaming laws in other states and report any findings and recommendations to the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on General Laws on or before November 1, 2019.
- Promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

The Board is prohibited from issuing casino gaming operation licenses until after July 1, 2020.

6. **Budget Amendment Necessary:** No. The substitute bill prohibits the Virginia Lottery Board from issuing a license to operate a casino gaming establishment before July 1, 2020. The issuance of a casino gaming license is contingent upon a locality passing a referendum authorizing the operation of a casino in which the casino is located.
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	\$0	0.00	-
2021	\$50,000	0.00	GF
2022	\$0	0.00	-
2023	\$0	0.00	-
2024	\$0	0.00	-
2025	\$0	0.00	-

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), Department of Corrections (DOC), and Virginia State Police (VSP). A budget

amendment for the state agencies affected by this legislation is not required because the Virginia Lottery is not authorized to issue a casino gaming license until after July 1, 2020. The estimated costs 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 proposed legislation prohibits the Virginia Lottery from granting any initial license to operate a casino gaming establishment until after July 1, 2020. 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, would be supported through the allocation of gross receipts and fees.

The proposed legislation authorizes a sum sufficient appropriation, from the five percent tax rate on the adjusted gross receipts for each licensed casino gaming operation, for the Virginia Lottery to support its administrative and regulatory costs. 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 Virginia Lottery, for anyone wanting to obtain a service permit. The fees are expected to defray the costs incurred by the Virginia Lottery. The substitute requires the Virginia Lottery Board to conduct a review of casino gaming laws in other states and report any findings and recommendations to the Chairmen of the Senate Committee on General Laws and Technology and the House Committee on General Laws on or before November 1, 2019. The costs for conducting the review are expected to be funded within the Virginia Lottery's current nongeneral fund operating budget.

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 (FTE) 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, but more than 10 years and a fine of not more than \$100,000 is required. For a Class 6 felony, a judge has the option of sentencing anyone to up to one year in jail, or 1 to 5 years in prison. Because of the sentencing requirements, 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 legalization of casino gambling will require the VSP to conduct investigations as the proposed legislation requires a background investigation of every individual applying for a gaming license and the submission of fingerprints for criminal history record searches by the Central Criminal Records Exchange (CCRE) of every person involved in gaming operations. According to the VSP, the proposed legislation would require additional staff to handle the anticipated increase in the agency's current workload; however, the number of additional staff needed for VSP to carry out the provisions of this legislation is dependent upon the number of casino gaming license or permit applications received by the Virginia Lottery Board. The estimated administrative costs for the VSP would be supported through the general fund.

The table below provides a break out of VSP's estimated fiscal impact.

<u>Position</u>	<u>Number of FTEs</u>	<u>Total Cost per Position</u>	<u>Year 1 – Cost</u>	<u>Year 2 - Cost</u>
Special Agent Accountant (Statewide)	2.00	\$168,757	\$337,515	\$264,035
Special Agent Accountant (Northern VA)	2.00	\$192,743	\$385,488	\$312,008
Background Investigator	4.00	\$80,096	\$320,386	\$320,386
Program Support Technician	1.00	\$70,988	\$70,988	\$70,988
CCRE Program Support Technician	3.00	\$70,988	\$212,964	\$212,964
Fingerprint Technician	1.00	\$74,418	\$74,418	\$74,418
Total	13.00		\$1,401,759	\$1,254,799

The bill imposes a 10 percent tax on adjusted gross receipts from each licensed casino operator would be collected by the Lottery, daily, and distributed as directed: 0.05 percent to Problem Gambling Treatment and Support Fund; 2.5 percent to Virginia Public School Construction Grants Program and Fund; and 2.45 percent allocation to cover the costs of casino gaming regulation and oversight. A five percent tax imposed on the casino gaming proceeds shall be deposited into the State Local Casino Gaming Proceeds Fund to make quarterly disbursements to any city in which a casino gaming establishment is located. The State Local Casino Gaming Proceeds Fund is to be used to support public transportation, safety, education, and the Regional Improvement Commission. The bill does not specify an entity responsible for disbursing funds from the Virginia Public School Construction Grants Program and Fund or the State Local Casino Proceeds Fund to the end recipients.

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 Virginia Lottery Board, as well as the type of games offered and scope of the facility, which would not begin prior to July 1, 2020.

The proposed legislation authorizes civil penalties to be assessed by the Virginia Lottery Board 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 Health and Developmental Services, 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 House Bill 1890 (James), House Bill 2536 (O'Quinn), and House Bill 2698 (Knight).

Senate Bill 1574 (Norment) is also similar to Senate Bill 1126-S1 and 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.